

LYT
TILTON

TEN VRS
truely trans-
lated in-
to
Englyshe.

II

Anno. Do. M.D.L.I.

and



Handwritten text, possibly a library or collection mark.

Handwritten text at the bottom of the page, likely a library or collection mark.

Fee Symple.

**Estate of inher-
yptauunce.**

Venerall.

Fee Tayle.

**Escepe all a-
ter possybyl
tye of p[er]su**

**After the com-
mon lawe.**

Curtseye of

**franke tene-
ment onely.**

Englande.

**franke-
tenement.**

Dower.

Terme of lyte

Terme of

others lyte.

**Hol-
sell
on of**

**After the
custome.**

**Also note here, that franke ten-
ment after the custome, maye be di-
uyded in lyke maner as franke ten-
ement by the common lawe is.**

Recall.

Terme of yeres

Warde of lande

To holde at wil

Chatell.

Personall.

All goode

movables

Jo. Caslin

Lot Rec Apr. 25, 1916

The fyft Chapter:



Tenant in fee simple is he which hath landes or tenementes to hold to him and to his heires for euer. And is called in Latin feodum simplex, for feodum is called inheritance, and simplex is as much to say as lawfull or pure, and so feodū simplex is as much to say as lawfull or pure inheritance. For if a man wil purchase landes or tenementes in fee simple, it behoueth hym to haue these wordes in his purchase, to haue and to holde to hym and to his heires. For these wordes, his heires, make the estate of inheritance. For yf any manne purchase landes by these wordes, to haue and to holde to him for euer, or by suche wordes, to haue and to holde to hym and to his assignes for euer. In these.ii. cases he hath none estate but for terme of lyfe, for that that he lacketh these wordes, his heires, the whiche wordes onely, maketh the estate of inheritance, in al feoffementes and grautes. And if a mā purchase land in fee simple and die without issue, any that is his next colyn collateral of the hole bloude, home farre soeuer that he be from hym in degree

What is
fee simple

An. 20. B
Folio. 30

Lytelton liber .i.

Cap. i.

Partime

may inherite, and haue the same lande, as heyre to hym. But if there be father & son and the father hath a brother, whiche is vncle vnto the son, and the son purchaseth lande in fee simple, & dyeth without issue, his father liuing, the vncle shal haue the lande, as heyre to the son, and not the father, yet the father is moze nere of blood for that that there is a groude in the law that inheritace may initially descend, but not initially ascend. Yet yf the son in such case dieth without issue and his vncle entereth into the landes, as heire to the son, so as he ought by the law, & after y vncle deceaseth without issue, the father liuing the shal the father haue the land, as heire vnto the vncle, and not as heyre vnto his son, for y that he cometh vnto y lande by collateral descent, & not by initial ascencion. ¶ And in such case where the son purchaseth land in fee simple, and dieth without issue, they of his blood of the fathers side shal inherite, as heyres vnto him, before any of the blood of the mothers side. But if he haue none heyre on the fathers side, then shal the lande descende vnto his heyres on the mothers syde, and this is the opinion of al the Iustices. **W. 12. E. 4. fo. 14.** But there it was holden, if land descended to a man by the fathers syde, which dieth without issue, that his nexte heyre of the fathers

fathers syde, shal inherite vnto him (that is to say) the next heire þ is of the bloude of the father, of the grandfathers syde, & for default of such an heire, they þ be of þ fathers bloud of þ parte of the mother, of the father, that is to say, the grandmother ought to inherite. And yf there be no such heire on the fathers syde, the þ lord shal haue the lande by eschete. And so it is if a man take a wyfe inherite in fee symple, whiche haue issue a son, and die, & the son entreth into the tenementes, as son and heire to his mother, & after dieth without issue, the heires on þ mothers syde, ought to inherite the tenementes, and not the heires of the fathers syde, and if there be none heires on the mothers side, then the lord, of whō the same lande is holdē, shal haue the same land by eschete. In þ same maner it is, yf landes descend vnto þ son on the fathers syde, & entreth, & after dieth without issue, þ lande shal descend vnto þ heires on the fathers syde, & not to þ heires on þ mothers side. And if there be none heires on þ fathers side, the þ lord of whō the land is holdē, shal haue þ same land by eschete. And so ye may se þ diuersitie, where þ son purchaseth landes or tenementes in fee symple, & where he cometh into those landes or tenementes, by descent on the fathers syde, or on þ mothers side.

Diuerſitie

Lyttelton liber .x.

Capl. i.

The elder
son is more
worthy of
bloude.

Barime.

¶ Also if there be thre brethren, and the myddell brother purchaseth lande in fee simple, and dyeth without issue, the elder brother shall haue the land by descent and not the yonger.

¶ And also yf there be thre brethren, and the yongest brother purchaseth land in fee simple, and dyeth without issue, the elder brother shall haue the land by descent, and not the myddell brother, for that that the elder brother is more worthy of bloude.

¶ And it is to be vnderstand, that no man shall haue land in fee simple by descent, as heire vnto any man, but if he be his heire of the hole bloud. For if a man haue issue of two venters, & the elder purchaseth lande in fee simple, & dieth without issue, the yonger brother shall not haue the lande, but the brere of the elder brother, or some other his nyghe cousyn shall haue it, for that that the yonger brother is but of y halfe bloud to y elder brother.

¶ And if a man haue issue a sonne & daughter by one venter, and a son by an other venter, and the son by the first venter purchaseth lande in fee simple, & dyeth without issue, the syster shall haue the lande by descent, as heire vnto her brother, & not the yongest brother, for that y the syster is of the hole bloud to her elder brother.

¶ And also where a man is seiled of lande

des

des in fee simple, and hath issue a son and a daughter by one venter, and a son by another venter and dyeth, & the elder son entreteth & dieth without issue, the daughter shall haue the land, & not the yonger sonne And yet is the yonger son heire vnto his father, but nat to his brother. But yf the elder son enter not into the land after the death of his father, but dieth before anye entre made by hym, then the yonger brother may entre and haue the land as heire vnto his father. But where the elder son in the case aforesayd, entreteth after the death of his father, and hath possession, then the sister shall haue the lande. Quia possessio terrarum de feodo spoli, facit sororem esse heredem. For the possession of the brother in fee simple maketh the sister to be heire.

¶ But if there be .ii. brethren by diuers ventres, & the elder is seised of the lande in fee simple, & dieth without issue, and his vncle entreteth as heire heire vnto the elder brother, whiche also dyeth without issue, then the yonger brother may haue the land as heire vnto his vncle, because he is of the hole bloude to hym, though he be but of halfe bloud vnto his elder brother, ¶ And it is to be vnderstand, that this worde inheritance, is not onely vnderstand where a man hath landes or tenementes by descent of heretage, but also euery fee simple

Marine.
In. 40. C.
Folio. 9.
F. incot.
¶ And
same hyn
Anno. 29
Folio. 7.

What is
heritaun

Lyttelton liber. i.

Cap. i.

the forme
of a wrytte.

oʒ fee taylor þ a man hath by his purchace
may be said inheritaunce, foʒ that that his
heires may inherite hym. foʒ in a wrytte
of right that a man bringeth of land, that
was of his owne purchace, the wrytte shall
say. Quam clamat esse ius et hereditatem
suam, that is to say, which he claumeth to
be his right, & his inheritance. And so it
shalbe sayd in dyuers other wryttes, which
a man oʒ a woman bringeth of his owne
purchace, as it appeareth by the register.
¶ And of suche thynges as a man maye
haue a manuell occupation, possession, oʒ re-
ceite, as of landes, tenementes, rentes, &
such other, a man shal say in his pleding
and in way of barre, þ one such was sea-
led in his demesne, as of fee. But of such
thynges, þ he not in such manuell occupa-
tion, &c. as of auoulde of a churche & suche
lyke, he shal say, that he was sealed as of
fee, & not in his demesne as of fee. And in
latin it is in one case, Quod talis fuit sei-
situs in dominio suo vt de feodo, that is
to say, that such one was sealed in his de-
mesne, as of fee, & in þ other case. Quod
talis fuit seiscitus, &c. vt de feodo, þ is to
say, that one such was sealed as of fee.
¶ And note well, that a man maye not
haue a moze large ne greater estate of in-
heritaunce then fee simple.
¶ Also purchace is called the possession of
landes

the moost
estate inhe-
ritance.
purchace.

Fee tayle.

fol. b.

landes oꝝ tenementes that a man hath by his dede, oꝝ by his agrement, vnto which possession he cometh not by discent of any of his auncesters, oꝝ of his coulyns, but by his owne dede.

Cap. 3.

Tenant in fee tayle. Cap. ii.

Tenant in fee taile is by force of the statute of Westminster second. Ca. i. foꝝ at the commo law befoꝛe the sayde statute, all inherytaunce were fee simple, foꝝ al the gyftes, which ben specified within the same statute, were fee simple conditionally, as it appeareth by the rehearsal of the same statute. And now by the same statute, tenant in the tayle is in two maners, that is to say, tenat in taile general, and tenant in tayle special.

Division.

Tenant in tayle generall, is where landes oꝝ tenementes be gyven to a man and to his heires of his body begottē. In this case it is sayd general tayle, foꝝ that that whatsoeuer womā that such tenant taketh vnto wife, if he haue many wiues, and by eche of them hath issue, yet euery one of these issues by possibilitie may inherit the tenementes by force of the sayde gyft, because that euery suche issue is of his body engendꝛed.

General
tayle.

In y same maner it is, where landes & tenementes be gyven to a woman, & to the heires of her body, although she haue dy-

A. b.

uers

Cap. 1.

uers husbādes, yet the issue that she maye haue by ech husbād, may inherite as issue in the taile by force of þ said gift. And therfore such giftes be called general tayle.

Special
tayle.

¶ Tenaut in tayle special is where landes and tenementes be giuen to a man & to his wyfe, and to the heyres of theyr. ii. bodies begotten. In such case none maye inherite, by force of the sayde gyfte, but those that be engendred betwene theym two. And it is called a special tayle, for þ if the wyfe dye, and he taketh an other wife, and hath issue, the issue of the second wyfe shall neuer inherite by force of such gyfte. Nor also the issue of the seconde husbāde, if the fyrst husbāde dye.

Frankemari-
age maye
be made as
wel after
her spous-
alles as a
pri. 4.
c. 5.

¶ In the same maner it is, where landes and tenementes be giuen by a mā vnto an other with a wyfe, whiche is þ daughter or colin to the giuer, in frankemariage, whiche gyfte hath inherytance by these wordes, frankemariage, vnto it annexed, although that they be not expressely sayd or reherced in the gyfte, that is for to say, that these donees shall haue these landes or tenementes to the and to theyr heyres betwene them two engendred; and this is sayd especial tayle, for that the issue of þ second wife may not inherite. &c. vt sup

What fee
tayle is.

¶ And note wel þ this worde talliare, is to say, to let vnto some certaynie; or els iunite

See tale.

Pol. vi.

limitte vnto some certayne inheritaunce. And for that that it is limited and set in certayne what issue shal inherite by force of such gistes, and how longe that the inheritaunce shall endure, therefore it is called in latin. feodum talliatum. i. hereditas in quadam certitudine limitata. For if tenant in general tale die without issue, the donour or his heyres shal inherite as in theyr reuercion. In the same wyse is of the tenaunt in the tale speciall. Et. For in euery gyfte in tale without more sayeng, the reuercion of fee simple is in the donour, and the donees, and theyr heyres, shall do to the donoure and to his heyres, such seruices as the donour doth vnto his lord next aboue him. Except the donees in frankmariage, which shall holde quietly from euery maner of seruice (but yf it be for fealtie) vntill the fourth degree be past. And after that the fourth degree be paste, the issue in the. v. degree, and so forth the other issues after him, shal holde of the donour and of his heyres, as they holde ouer, as is aforesayde.

And these degrees in frankmariage shall be accepted in such maner, that is to say, fro the donour to þe donees in frankmariage the fyrst degree, for þat the wyfe þe is one of þe donees, ought to be þe doughter sister, or other cousin to the donour, and fro

Cap. I.

By what seruyces the tenantes in tale shall holde of theyr donour.

Joachim

Howe the degrees in franke marriage shall be accepted.

Cap. 3.

fro the donees vnto they? issue, shalbe accompted the seconde degree. And frome they? issue vnto they? issue, the thyrde degree and so forth. &c.

¶ And the cause is, for that after euerye suche gifte, the issues that come of the donour, and the issues that come of the donees, after the.iiii. degree past of both parties, in such forme to be accompted, may betwixt them by the lawe of holy church entermay. And that the donee in franke marriage, shal be the fyrste degree of the foure degrees, a man may se in a plee bypon a wyrt of ryght of warde, where the plaintife pleaded, that his ayle or grande father was seased of certayne landes. &c. And that he helde of an other by knyghte seruice. &c. whiche gaue the lande vnto one Rafe Holland, with his syster, in fraunce marriage. &c. Al these tayles before sayde, be specified in the sayde estatute of Westminster the seconde.

¶ Also there be dyuers other estates in the taylor, whiche be not specyfied by expresse wordes in þe sayd statute, but they be taken by the equitie of the sayd statute. As if landes be giuen vnto a man, and to his heyres males of his body engendred in suche case his heyre male shal inherite, & the issue female shal neuer inherite, yet in these other tayles aforesayd, it is otherwise.

¶

Cap. 3. C. 3.

¶ And the cause is, for that after euerye suche gifte, the issues that come of the donour, and the issues that come of the donees, after the.iiii. degree past of both parties, in such forme to be accompted, may betwixt them by the lawe of holy church entermay. And that the donee in franke marriage, shal be the fyrste degree of the foure degrees, a man may se in a plee bypon a wyrt of ryght of warde, where the plaintife pleaded, that his ayle or grande father was seased of certayne landes. &c. And that he helde of an other by knyghte seruice. &c. whiche gaue the lande vnto one Rafe Holland, with his syster, in fraunce marriage. &c. Al these tayles before sayde, be specified in the sayde estatute of Westminster the seconde.

Equitie of the Statute.

¶ And the cause is, for that after euerye suche gifte, the issues that come of the donour, and the issues that come of the donees, after the.iiii. degree past of both parties, in such forme to be accompted, may betwixt them by the lawe of holy church entermay. And that the donee in franke marriage, shal be the fyrste degree of the foure degrees, a man may se in a plee bypon a wyrt of ryght of warde, where the plaintife pleaded, that his ayle or grande father was seased of certayne landes. &c. And that he helde of an other by knyghte seruice. &c. whiche gaue the lande vnto one Rafe Holland, with his syster, in fraunce marriage. &c. Al these tayles before sayde, be specified in the sayde estatute of Westminster the seconde.

In the same maner it is, yf landes be
giuen to a man, and to his heires females
of his body ingendred, in this case his is-
sue female shal inherite by force & fourme
of the sayd gyfte, and not the issue male,
foz that that in suche cases, where the
gyfte is made in tayle, who ought to in-
herite, and who not, the wyll of the do-
nour shalbe obserued.

The wyll
of the do-
nour in all
thyngs shal
be obserued.

shall be
as if it was
the donour's
will.

And in case where landes oꝝ tenemen-
tes be giuen to a man, and to his heires
males issue of his body, and he hath
issue two sonnes, and deceaseth, the elder
son entreth as heire male, and hath issue
a daughter, and deceaseth, his brother
shal haue the lande, and not the daughter
foz that that the brother is heire male.
But in these other tayles which bene spe-
cified in the sayd statute, the daughter
shal inherite before the brother.

Taille vnto
the heires
males.

Also yf land be giuen vnto a man, and
to his heires males of his body engen-
dred, and he hath issue a daughter, whi-
che hath issue a son, and deceaseth, & after
that the donee deceaseth. In this case the
son of the daughter shal not inherite by
force of the tayle, foz that y who so euer
shal inherite by force of a gyfte in y tayle
made vnto the heires males, behoueth to
conuey his disceit allway by the cyres ma-
les. But in such case y donour shal entre
foz

28. 18. C. 3
fol. 45.

Cap. 3.

The dyscent
of the hey-
res males.
When the
husbande
hath estate
in tayle es-
peciall, and
when the
wyfe.

for that that the donee is deade without
issue male in the lawe. In so muche that
the issue of the doughter may not conuey
to hym the dyscent of heyre male.

¶ And in the same maner it is where lan-
des be giue to a mā and his wyfe, & to his
heires males of their. ii. bodies ingedred.

¶ Also yf tenementes be gyuen to a man
and his wyfe, and to the heires of the bo-
dy of the man ingedred, in this case the
husbande hath estate in the general tayle
and the wyfe but estate for terme of lyfe.

¶ Also if landes be giuen to the husband
and to the wyfe, and to the heires of the
husbande, which he ingedred of the bo-
dy of the wyfe, In this case the husbande
hath estate in the speeyall tayle, and the
wyfe but for terme of lyfe.

¶ And yf the grfte be made to the hus-
bande, and to the wyfe, and to the heyres
of the wyfe of her bodye by the husbande
ingedred, then the wyfe hath estate in
the speeyall tayle, and the husbande but
for terme of lyfe.

¶ But if landes be giuen to the husband
and the wyfe, & to the heires that the hus-
bande ingedred on the body of the wyfe
In this case both haue estate in the taile,
for that this worde heires, is not lympt-
ted no more to the one then to the other.

¶ Also if landes be giuen to a mā and his
heyres

In. 12. B. 4.
Folio. 1.
¶ Wyfe als
leaged. 1c.

heires that he engendzeth on the body of his wife, in this case the husband hath estate in y^e tayle special, & the wife nothing. Also yf a man haue yssue a son and decesseth, and the lande is giuen to the son and to the heyres of the bodye of his father engendzeth, this is a good tayle, and yet the father was deade at the tyme of the gyfte.

¶ And manye other estates in the tayle there be by the equitie of the said statute that be not specyfyed here. But yf a man giue landes or tenementes to an other, to haue and to hold, to him and to his heires males or to his heires females, he to whō suche gyfte is made, hath fee symple, for that that it is not lymptted by the gyfte, of what body the issue male or female shal be, and so it may not in any thyng be taken by the equitye of the sayde statute, and therfore he hath fee symple.

Fee symple
condycio-
nallye.

¶ Tenant in tayle after possibyltye of yssue extincte. Cap. iii.

Tenant in the tayle after possibilitie of the issue extinct, is where as landes or tenementes be giuen vnto a mā, and his wife in special tayle, if one of them decesseth wout issue, he þ^e suruiuerh is tenant in the tayle after possibilitie of issue extinct. And if they haue issue, duryng the lyfe of the issue, he that suruiuerh shal not

Cap. 2.

be sayd tenant in the tayle after possybilite of issue extinct. Yet if the issue decease without issue, so that there be none aliue that may inherite by force of the taile, then he that suruiuerh of the donees, is tenant in y^e tayle after possibilitie of issue extinct. ¶ Also if landes be gyven to a mā, and to his heires, that be engendred on the body of his wyfe, in this case the wyfe hath nought in the tenementes but the husband is seled as donee in the special tayle. And in this case yf the wyfe decease without issue of her body engedred by her husband, then the husband is tenant in the tayle after possibilitie of issue extinct.

Partme.

¶ And note wel, y none maye be tenant in the tayle after possibylite of issue extinct, but one of the donees, or the donee in special tayle, for the donee in generall tayle maye neuer be sayde ternaunt in the tayle after possibilitie of issue extinct, for that that alway durynge his lyfe, he may by possibylite haue issue that maye inherite by force of the same tayle. And so in the same maner y issue that is beget vnto the donees in a special tayle, maye not be sayde ternaunt in tayle after possibylite. &c. causa qua supra.

Bn. 10. 7.
6. folio. 1.

¶ Also tenant in taile after possibilitie of issue extinct, shal neuer be punished of waste for y inheritance y ones was in hⁱ. But he

Tenant by curtesy.

fo. 12.

Cap. 4.

he in the reuerryon may entre, yf he doth
a lyne in fee. An. 45. E. 3. folio. 22.

¶ Tenant by the curtesy of Eng-
lande. Capit. liii.

Tenant by the curtesy of Englande
is where a man taketh a wyfe lea-
sed in fee simple, or in fee taile gene-
ral, or leaseth as heire in the taile special, &
hath issue by the same wyfe male or female
the yssue after being deade or a lyne if the
wyfe dealese, the hulbande shall holde the
lande during his life, by the lawe of Eng-
land. And this is called tenant by the cur-
tesy of England, for that that it is not be-
sed in none other realme, but onely i Eng-
lad. And some say, that it shal not be said
tenant by the curtesy, but if that y child
that he hath by his wyfe, be harde crye:
for by the crye is the pfofe, that the child
that he had by his wyfe, was borne.

¶ The tenaunt in dower cap. v.

Tenaunt in dower, is where a man is
leased of certeine landes or tenemen-
tes in fe simple, or in fe taile general
or as heyre in the taile special, & taketh a
wyfe, and decesseth, the wyfe after the de-
ceasse of her hulbande, shalbe endowed of
the thyrde part of such landes, or tenemen-
tes that were her husbandes in any tyme
during the couerture, to haue and to hold
to the same wyfe in seueralte, by merces &

B. i.

boundes

Lyttelton liber. 1.

Capit. 9.
Of what
age the
wyfe shalbe
endowed.
and howe.
11. 12. 13. 4.
Folio. 3. by
haue and
Coun.

holdes, for terme of her lyfe, whether she
haue by her husoand issue or none, and of
what age the wyfe be, so that she passe the
age of .ix. yere at the tyme of her husbands
death, or els she shall not be endowed.

¶ And note wel, that by the comon lawe
the wyfe shal not haue for her dower, but
the thyrde part of the tenementes, whiche
were her husbandes, duryng the espous-
selles. But by custome of some countrey,
she shal haue the halfe, and by custome of
some towne, or borough, she shall haue
the whole: And in al these cases, she shal
be sayd tenant in Dower.

¶ Also there is two other maner of do-
wers, that is to saye, dower called dowe-
ment at the Church doze, and dower cal-
led dowement by the fathers assent.

¶ Dowment at the church doze, is where
a man of full age is leased in fee simple,
whiche shalbe wedded unto a wyfe, when
he cometh unto the church dooze to be
marryed, and there after affiaice and truth
made betwene theym, he endoweth his
wyfe of his holl lande, or of the halfe, or
lesse parcell, and there openly declarer he
the quantite, and the certeyntye of his
lande, that she shall haue for her dower.
In this case the wyfe after the death of
her husband, shall entre into the said qua-
ntite of lande, of which her husband endo-

Dower at
the church
doze.

wed

wed her, wout the assignemēt of any mā.
¶ Dowement by the fathers assente, is
 where the father is seased of tenementes
 in fee, and his son and heyre apparant,
 when he is wedded, endoweth his wyfe
 at the church doze of parcel of the landes
 or tenementes of his fathers, by thassent
 of his father, and assignerth the quantitie
 of the parcelles: In this case after the
 deathe of the son, the wyfe shall entre in
 the same parcel without the assignement
 of any other. But it hath beune sayde in
 this case, that it behouethe the wyfe to
 haue a dede of the father, prouyng his as-
 sent and consent, of suche endowment.
 And yf after the death of the husband she
 entre and agree vnto any suche dower of
 the said two dowers at the church doze,
 then she is concluded to claime any other
 dower by the common law of any landes
 or tenementes, whiche were of her sayde
 husbände. But if she wyl she may refuse
 such dower at the church doze, and then
 she may be endowed after y course of the
 comon lawe. And note well that no wyfe
 shalbe endowed of the fathers assent in the
 forme aforesayd, saue where her husband
 is son and heyre apparant to his father.
¶ Inquere in these two cases of indowe-
 ment at the church doze, if the wife at the
 tyme of the death of her husbände, passe

Dower by
 the fathers
 assente.

¶ 40. C.
Folio. 45.

¶ 12. C. 4.
Folio. 3.
 Whiche d
 agree vnt
 the same.
A rule.

Inquere.

Lyttlton liber. 1.

cap. 5.

Not the age of .ix. yeres, yf he shall haue
suche dower oꝛ no.

Where as
the wyfe
may entre
her do-
wer with-
out assigne-
ment, and
where nat.

m. 40. C.
fo. 23. by
encol.

¶ And note well, that in all cases wher
the certeyntye appereth, what landes oꝛ
tenementes the wyfe shal haue for her do-
wer, the wyfe may entre after the death
of her husbande, without assignement of
any other. But where the certeyntye ap-
pereth not, as to be endowed of the thirde
part, to haue in seueraltie, oꝛ to be endow-
ed of the halfe, after the custome to holde
in seueraltie. In su. be cases it behoueth,
that her dower be vnto her assigne, after
the death of her husbande, bycause it is
not limited befoꝛe the assignement what
part of landes, oꝛ tenementes, she shal
haue for her dower. But yf there be two
iointenantes of certayn landes in fee,
and the one alieneth that that to him per-
teyneth and belongeth to an other in fee,
which taketh a wyfe, and after dieth. In
thi case the wyfe for her dower, shal haue
the thirde parte of the halfe that her hus-
bande purchased to holde in comune, and
occupy in comune, as her parte amounteth
with the heire of her husbande, and with
the other iointenant, whiche aliened not
for that in suche case her dower may not
be assigne by metes and boundes.

The wyfe
shal not be.

¶ And it is to be vnderstande, that the
wyfe shal not be endowed of landes oꝛ te-
nementes

mentes, that her husband jointly helde
with an other at the tyme of his deathe.
But where he holdeth in common, it is
otherwile, as in the next case also; sayde.

¶ And it is to wit, that if the tenant in
taylor endowe his wyfe at the church doze
as it is also; sayd, that shal serue for; lytle
or nought to the wyfe, for that that after
the death of her husbände, the issue in the
taylor may entre bypon the possession of
the wyfe, and so may he in the reuersion,
yf there be none issue in the taylor alyue.

¶ Also yf a man seased in fee simple, be-
yng within age, endowe his wyfe at the
churche doze, and dieth, and the wyfe en-
treth. In this case the heyre of the hus-
bände maye put her out. But it is other-
wile, as it semethe, where the father is
seased in fee, and the son within age en-
dowe his wyfe of his fathers assente, the
father then beyng of full age.

¶ Also there is an other Dower whiche
is called Dowerment de la plus beale.

And that is, as in suche case, that a man
is seased of fortye acres of lande, and he
holdeth twentye of the sayde fortye acres
of one man by knyghtes seruice, and the
other twentye acres of an other in so-
rage, and taketh a wyfe, and hath issue a
son, and dyeth, his son beyng within the
age of thirtie yeres, and the lord of whome

Cap. 5.
endowed
of the toy-
estate of
husbände
An 14. B.
fol. 14.

where ad-
gnement
dower may
be voyde
reason of
within age

Dower
la plus beale

the lande is holden by knyghtes seruyce,
entreteth into the twenty acres of lande,
holden of him, and then hath he and occu-
pyeth as wardeyne in chivalrye. During
the chyldes nonage, and the chyldes mother
entreteth in the remenaunt, and it occupi-
eth as gardeyne or wardeyne in socage.
If in this case the wyfe bringe a wytt of
Dowter agaynst the wardeyne in Chyual-
ry, to be endowed of the tenementes hold-
den by knyghtes seruyce, in the kynges
court, or in any other court, the wardeyn
in chivalrye may pleade in such case al the
matter, and shewe how the wyfe is war-
deyn in socage, as it is aforesayd, & praye
that it may be adiudged by the court, that
the wyfe endow her selfe of the most payre
called plus beale, of the tenementes that
she hath as wardeyne in socage, after the
value of the thyrde part that she claimeyth
to haue of the tenementes holden in chy-
ualrye, by her wytt of Dowter.

And if the wyfe may not gayne say it, then
the iudgement shalbe made, that the war-
deyne in chivalrye shall holde the landes
holden of hym, duringe the nonage of the
chyld, quere from the woman. &c.

¶ And after such iudgement gyven, the
wyfe maye take her neyghbours, and in
their presence endowe her selfe by thetes
and biddes of the sayd part of these ten-
mentes.

Dower.**Fol. rii.****Cap. 9.**

mittes, & she hath as wardeyne in feeage, to the value of the thyrde part of the landes, that the wardeyne in chivalry hath, and those to haue and to hold for terme of her lyfe. And such dower is called dower of the sayrest part, or de plus beale.

¶ With this agreeth .D. 45. E. 3. fol. 4. But there it was sayde, that after the tyme that the heyre came to his full age, the wyfe shal haue a newe action of dower agaynst the heyre, to be endowed of the thyrde parte of all that her husbände dyed seased of.

¶ And note wel that suche dowerment may not be, but where the iudgement is giuen in the kinges court, or in some other court. And the wyfe may do this for the saluaciō of the state of the warden in chivalry, during the nonage of the chyld. And so may ye see fyue maner of dowers, that is to say dowerment by the cōmon lawe, dower by custome, dower at the church doze, dower of the fathers assent, and dower of & most sayre. **¶** And remembze that in euery case where a man taketh a wyfe seased of such estate of tenementes. &c. so & the issue that he hath by his wyfe, maye by possybilite inherite the same tenementes of such estate that the wyfe hath, as heyre to the wyfe. In suche case after the wyfe is deade, he shal haue the same tenementes, by

Fyue maner of dowers.

Tenementes of the curtesy.

B, liii.**the**

Capl. 5.

Parime.

n. 12. p. 4
l. 5.

ota.

the curtesy of Englande & otherwise not.
¶ And also in every case, where the wyfe
taketh an husband sealed of such estate of
tenementes. &c. so that by possibilitie it
may hap the wyfe to haue some issue by
her husband, and that the same issue may
by possibilitie inherite the same testamen-
tes of such estate that the husband had, as
heire to his father, of such tenementes she
shal haue her dower, and otherwyse not.
For if the tenementes be giuen vnto a mā
and to the heyres that he getteth on his
wiues body, in such case the wyfe hath no
thing in the tenementes, & the husband hath
estate but as donee in special rayle, yet yf
the husbāde die wth out issue the same wyfe
shalbe endowed of the same tenementes,
for that the issue, that she by possibilitie
myghte haue had by the same husbāde,
maye inherite the same tenementes. But
if the wyfe decesseth, the husbāde lyving,
and after he taketh another wyfe, the se-
conde wyfe shal not be endowed in this
case, causa qua supra.

¶ A man was sealed of certaine landes,
toke a wyfe, and after aliened the same lan-
des with warantie, and after the feoffor
and feoffee died, & the wyfe of the feoffour
hyngeth an actyon of dower agaynst the
issue of the feoffor, & he boucheth the heyres
of the feoffour, & during the boucher and

not

not

not

not termined, the wife of the feoffee, bringeth an action of dower agaynst the heire of the feoffee, and demaundeth the thyrde parte of all that her husbande was seised of, and wolde not demaunde the thyrde parte of those two parties, & her husband was seised of, it was iudged, & she shoulde haue no iudgement, vntyll the tyme that the other plee were determyned.

Cap. l.

And also note that Trauallour sayth, that if a man be seised of landes, and commytteth felonye, and after alpeneth, and after is attaynted, the wyfe shall haue a good action of Dower agaynst the feoffee. But if it be escheated vnto the kynge, or vnto the lord, she shal haue no wyette of Dower. And so se the dyuersitie, and enquire the lawe.

Tenant for terme of lyfe. Cap. bi.

Tenant for terme of lyfe, is where a man letteth landes or tenementes to an other for terme of life of the lessee, or for terme of lyfe of an other man. In such case the lessee is tenant for terme of lyfe. But by common language, he that holdeth for terme of his owne lyfe is called tenant for terme of lyfe, & he that holdeth for terme of an other mans lyfe, is called tenant for terme of an others life.

And it is to be vnderstande, & there is

B.b.

feoffour

feoffour and feoffee, donoure, and donee, lessour and lessee. The feoffour is properly, where a man infeoffeth an other in any landes, or tenementes in fe simple, he that maketh the feoffement is called feoffour, and he vnto whom the feoffement is made, is called feoffee. And the donour is properly where a man gyueth certayne landes or tenementes to an other in the taylor, he that maketh the gyfte is called donoure and he to whome the gifte is made, is called donee. And the lessour is properly where a man letteth to an other certayne landes or tenementes for terme of life, for terme of yeres or to holde at wyll, he that maketh the lease, is called lessour, and he to whome the lease is made, is called lessee. And euery one that hath estate in landes or tenementes for terme of his owne lyfe or for terme of an other mans lyfe, is called tenant or freholde. And none other of lesse estate may haue freholde but they of greater estate may haue freholde. For tenant in fee simple hath freholde, and tenant in the taylor hath also freholde.

¶ Tenant for terme of yeres.

Capi. vii.

Tenant for terme of yeres, is where a man letteth landes or tenementes to an other, for terme of certain yeres after the nuber of yeres, that is accorded betwene

Term of yeres. fol. xiiii.

between the lessour and the lessee, and when the lessee entreteth by force of the lease then is he tenant for term of yeres, and if the lessour in such case reserve to hym a yerely rent upon such lease he may chose for to distreyn for the rente in the tenementes letten, or els he maye take an action of dette for the arrerages agaynst the lessee. But in such case it behoueth that the lessour be sealed of the same tenementes at the tyme of his lease; for it is a good plice for the lessee to save, that the lessour had nothing in the tenementes at that tyme of the lease, excepte the lease be made by dede indented, in whiche case then such plice lyeth not for the lessee to plecte.

¶ And it is to be understande that in a lease for term of yeres, by dede or wout dede, it needeth no livery of seisin to be made to the lessee, but he may entre whēsoever he wyl by force of the same lease. But of tenementes made in the countrey, or gyftes in the taylor, or leases for term of yere. In such cases, where freholde shall passe yf it be by dede, or without dede, it behoueth to have livery of seisin. &c.

But yf a manne lette landes or tenementes by dede or without dede for term of yeres, the remainder over to an other, for term of yere, or in that taylor, or in fee, the in such case, it behoueth that the lessour make

livery

Cap. 7.

where livery of seisin
shalbe required, and
where not.

Cap. 7.

lyuere of seysyn to the lessee for terme of
yeres, or els there shall nothyng passe to
them in the remainder, thowhe the lessee
enter in the tenementes. And if þ termour
in suche case entre befoze any such lyuery
of seysyn made vnto hym, then is the free-
hold and the reuercion in the lessour. But
yf he make any lyuere of seysyn vnto the
lessee, then is the freeholde w the fee to the
in the remainder, after the fourme of the
graunt and wyl of the lessour. And if any
man wyl make a feoffement by dede or w
out dede of landes or tenementes that he
hath in many towne in one wyze, yf the
lyuere of seysyn be made in one parcell of
the tenementes in one towne in the name
of all, it suffiseth for all the other landes
or tenementes comprehended in the same
feoffement in all other towne in the
same wyze. But if a man make a dede of
feoffement of landes or tenementes in dy-
uers shires, there it behoueth him to haue
in euery wyze a lyuery of seysyn. And in
such case a man shall haue by the graunte
of an other fee symple, fee taylor, or free-
holde without lyuery of seysyn.

Exchange.

¶ As if twomen be, and eche of them is
leased of a quantite of lande within one
shire, & the one graunteth his lande to the
other in eschaunge for the land þ the other
hath, & in the same maner the other graun-
teth

Terme of yerres. fol. xv.

Cap. 7.

erth his landes to the fyft grauntoure in
erthang for the land that the fyft graun
tour hath. In this case erhe may entre in
the others landes so taken in erchaunge
without any liucry of leylin. And such er
chaunge made by woordes of tenementes
within the same wyze, without any wri
ting is good ynough. And yf the landes
of tenementes be in diuers shires, that is
to saye yf that the one haue in one wyze,
and the other hath in another shire, there
it behoueth to haue a dede indented made
betwene them, of suche erchaunge.

And note, that in erchaunge it behor
ueth, that the estates that bothe partyes
haue in the landes so erchanged, be egall.
For if the one wylleth and granteth, that
the other shal haue his lād in the taile for
the land that he hath of the graunt of the
other in fee simple though he that the other
is agreed to that, yet this erchange is but
boyde, for that the estates be not euen.

In the same maner it is, wher it is grā
ted, and agreed betwene the, that the one
shal haue in the one land fee taile, and the
other shal haue i the other land but terme
of life. Or if one shal haue in the one land
fee tayle generall, & the other in the other
land fee tayle speccial. So alway it behor
ueth, that in erchange the states of bothe
parties be egall, that is to say, if that one
haue

In erchange
the estates
ought to be
egall.

one may
have

Cap. 7.

An. 9. C. 4.
Folio. 41.

Of posses-
sion and
seysyn.

haue fee simple in that one lande, then the other shall haue suche estate in the other land, and if the one hath fee taile in the one lande, then the other shall haue lykewyse in the other land. Et sic de aliis statibus.

¶ But it is nothyng to charge of the euē value of the landes, for thowge that the lande of that one is much moze in value then the lande of the other, this is nothyng to purpose, so that the estate made by the exchange be euē, and so in exchange, be two grauntes, for euery part graunteth his lande to the other in exchange, and in each of they grauntes mencyon shalbe made of the exchange.

¶ And yf a man let lande to an other for terme of yeres, thowge the lessour die before the lessee entre into the tenementes, yet may he entre into the tenementes after the death of the lessour, for that that the lessee by force of the lease hath ryghte incontynent to haue the tenementes after the fourme of the lease.

¶ But if a man make a dede of feoffment unto an other, and a letter of attourney to a man, to deliuer to him seisin by force of the same dede, yet if the livery of seisin be not made in the lyfe of hym that made the dede, it auayleth not, for that that the other hath no maner of ryght to haue the tenementes after the purpose of the dede before

before the livery of seisin. &c. And if no livery be made, then after the death of him that made the dede, the ryght o: luche re-
nementes, is conyngent in his heyre, o: in
some other.

¶ Also yf renementes be let to a man for
terme of halfe a yere, o: for terme of a
quarter of a yere, &c. In luche case yf the
lessee make waste, the lessour shall haue as
gayng him a wyrt of wast, and the wyrt
shal say. Quod tenet ad terminu annoꝝ
But he shal haue a special declaraciō byō
the truty of this matter, and the plec shal
not abate the wyrt, for that that he maye
haue no other wyrtte byōn the matter.

¶ Tenant at wyll. Cap. viii.

Tenant at wyll is, where landes o:
renementes be letten by a man by
to an other, to haue and to holde to
hym, at the wyll of the lessour, by force of
which seale, the lessee is in possession. In
suche case the lessee is called, tenant at
wyll, for that he hath no certeyne sure c-
state: for the lessour may put hym out, at
what tyme it pleseth him. Yet yf the lessee
sowe the lande, and the lessour after the
sowynge, and before that his graynes be
rype, putteth hym out, yet shall the lessee
haue his graynes, and shall haue free c-
gress and regresse, to reape and to carpy his
graines for that he wist not at what tyme
his

Waste as
garnite tes-
naunt for
terme of
yeres.

An. 4. b. 3.

Folio. 13.

An. 4. e. 4.

Folio. 19.

3. 7. b. 7.

Folio. 1.

With this
agreeth.

3. 37. b. 6.

Folio. 38.

Cap. 2.

his lessour wol e entre upon hym. Other
wile it is, yf renant for terme of yeres,
before the ende of his terme, to werthe the
lande, and the terme is ended, before that
his cozne be rypp. In this case the lessour
or he in the reuercyon, shal haue the gra-
ues, for that the terminour knewe well the
certeyntye of his terme, and when his
terme shulde be ended.

¶ Also if an house be let to a man to hold
at wil, by force of which the lessee ent-
erth into the house, within whiche house he
hryngeth his housholde stuffe, and after
the lessour putte the hym out, yet shal he
haue free entre, egress and regress in the
same house, by reasonable tyme to carpe
his goodes and housholde stuffe.

¶ And yf a man seald of an house in fee
symple, fee taylor, or for terme of lyfe, the
whiche hath certeyne goodes within the
same house, and maketh his executours,
and deceaseth, whosoever after his deeth
hath the house, yet shal his executours
haue free entre, egress and regress to ca-
ry out of the house the goodes of theyr fe-
statour by a reasonable tyme.

¶ Also if a man make a dede of feoffment
unto an other of certayne lande, and deli-
uereth to hym the dede but no lpyce of
seylpn. In this case he to whom the dede
is made may entre into the lade, and hold
and

Tenant at will. Fo. xbi.

and occupi it at the wyl of him that made the dede, for that that it is proued by the wooddes of the dede, that it is his wyl, that the other shall haue the lande. But he that made the dede, maye put hym out when he wyl.

Also yf an house be let to holde at wyl the lessee is not holden to susteyne o: repayre the house, as ternaunte for terme of yerres, is holden to do. But yf the lessee at wyl make voluntary wast, as in pulling downe of houses, o: in cutting o: selling of trees. It is sayde, that the lessour shall haue for that agaynst hym an actyon of trespas. As if I deliuer to a man my shepe to dong o: marle his land, o: miste open to vare his land, and he sleeth my beastes. I may wel haue an actio of trespas against hym, notwithstandinge the deliuerie.

Also yf the lessour bypon suche lease at wyl, reserue vnto hym a yerely rent, he may dystreyn for the rent behynde, o: to haue for that, an action of Dette at his owne choysse. D. 6. R. 2. in Reple.

Tenant by cople of court

Roile. Capi. ix.

Tenant by copy of court rolle, is as if a man be leased of a manor with in whiche manoure, there is a curome, and hath benne bled tyme out of mynde

Wast made by ternaunte at wyl how he shall be punished. Loke 3. 12 C. 4. fol. 1 an action of Trespasse

Copl. 9.

mynde, that certeyn ternautes with in
the same maner, haue to haue landes
oꝝ ternautes, to holde to theym, and to
theyr heyrz in fee simple, oꝝ in fee tayle,
oꝝ foꝝ terme of lyfe. &c. at the wyll of the
Lorde, after the custome of the same ma-
ner. And suche a ternaute may not alpen
the lande by dede, foꝝ then the Lorde may
entre, as in a thyng soꝝ sayte to hym. But
yf he wyll alpene his lande to an other.
him behoueth after some custome, to sur-
rendre the ternautes in some courte. &c.
into the lordes handes, to the ble of hym
that shall haue the estate in suche forme,
oꝝ to suche effecte.

Forme of
surrender in
court baron

¶ Ad hanc curiam venit A. de B. et sur-
sum reddidit in eadem curia bnum melus-
agium, &c. in manus domini ad bsum &c.
de A. et heredum suorum vel heredum de
corpore suo exeunt, vel pro termino vite
sue &c. Et super hoc venit predictus A. de
B. et cepit de domino in eadem curia mel-
suagium predictum. &c. habendum et ter-
nendum sibi et heredibus suis, vel sibi et he-
redibus de corpore suo exeuntibus vel sibi
ad terminum vite sue, ad voluntatem do-
mini secundum consuetudinem manerii,
faciendum et reddendum inde redditibus
debitis. consuetudinem inde prius de-
bit, et de iure consuet et dat domino de fi-
ne, &c. et fecit domino fidelitatem. &c. That

Tenant by copy:

Fo. 111.

Cap. 2.

Fourme of
playnts.

Is to say. A. of B. cometh vnto this court
and surrendreth in the same court a mese
sc. into the handes of the lord, to the vse
of E. of A. and his heyres, or to the heires
ysuinge of his bodye, or for terme of lyfe
sc. And vpon that cometh the foresaid E. of
A. and taketh of the lord of þ same court
the foresaid mese. sc. to haue and to holde
to him and to his heires, or to him and to
his heires issaig of his body, or to him for
terme of lyfe, at the lordes wyll, after the
custome of the manor, to do and yeld ther
fore rentes, dettes seruices and customes
therof before due and accustomed. sc. and
goueth the Lord for a tyme. sc. And ma-
keth vnto the Lord his sealtpe. sc.

¶ And such tenants ben called tenants
by cōpye of court roil, for that they haue
none other euidentes concernynge theyr
tenementes but the cōpy of the court roils,
and such tenants shal not impled nor be
impleded of their tenementes by þ kynges
writte, but if they wyl implede other, for
their tenementes, they shal haue a plaint
made in the court of the lord i such forme
or to such effect. A. de. B. querit versus C.
de D. de placito etc, videlicet de hinc mesu-
agio quadraginta acris etc quatuor acris
proci. sc. cum penci. Et facit proceatio-
nem sequi querela istam in natura breuis
dui regis assise mortis antecessoris ad co-

Playnts.

C. 11.

munem

mutuam legem, vel bꝛeuis domini regis as
 lise noue discepline ad communem legem.
 But in natura bꝛeuis, de forma donatio-
 nis in descendꝛe ad comunẽ legem. That
 is to say. A. of B. complaineth against C.
 D. of a plee of lande, that is to saye, of a
 meſe, and. pl. acres of lande. iiii. acres of
 medowe. &c. with the appurtenaunces,
 and maketh pꝛoteſtacion to ſue his plaint
 in nature of the kynges wꝛytte of aſſyſe
 of the death of his antecellour at the com-
 mon lawe, oꝛ by wꝛytte of our ſoucrayne
 lord the kyng of aſſyſe of nouel diſcepline
 at the comon lawe, oꝛ in nature of a wꝛyt
 of Foꝛmedone in descendꝛe, at the comon
 lawe, oꝛ in nature of ſome other wꝛyt. &c.
 pleges de pꝛof. f. B.

What reme-
 dye a tenant
 of custome
 ſhall haue
 agaynſt his
 lord.

¶ And thoughe that ſome ſuche tenants
 haue inherytaunce after the cuſtome of
 the manoure, yet they haue none eſtate,
 but at the lordes wyll, after the couſe of
 the comon lawe. Foꝛ it is ſayde, yf the
 lord put them out, they haue none other
 remedye, but to ſue vnto the lord by peti-
 tion. Foꝛ yf they had any other remedye,
 they ſhulde not be ſayde tenants at the
 lordes wyll, after the cuſtome of the ma-
 net, but the lord wyll not breake the cu-
 ſtome that is reaſonable in ſuche caſes.
 But Bꝛa chiefe iuſtice ſaith, that his o-
 pinion alwaies hath ben and alwaies ſhal
 be

Tenantes by the yarde. Fol. xix.

be yf suche a tenaunt by custome, payeng his seruices, be put out by the Lozde, he shall haue an actyon of trespas agaynste him. And lykewyse was the oppynion of Danby chiefe Justice, for he saythe, that the tenaunt by the custome is aswell enherite to haue his lande after the custome as wel as he that hath franktenemente by the common lawe.

Tenantes by the yarde. Cap. r.

Tenantes by the yarde, be tenantes in an other nature, the tenantes by copy of court Rolle. But the cause for which they be called tenantes by the rodde or yarde, is for that that when they wyl surrender theyr tenementes into the lordes hande, to the vse of an other, they shall haue a lytle yarde or rodde, by the custome and vse, in theyr handes, which they shall deliuer vnto the Stewarde or Baylyffe, after the custome and vse of the maner. And he that shall haue the lande, shall take the same lande in the court, and his takyng shall be entred in the roll. And the Stewarde or the Baylyffe, accordyng to the custome shall deliuer vnto hym that taketh the lande, the same yarde, or an other yarde in the name of seysin. And for this cause they be called tenantes by the yarde. But they haue none other copye, but copy of the court rolle.

L. iii.

And

Cap. 10.

§ 21. C.

§ 7. C.

Lyttelton lyber, i.

Capl. i.
Surrender
made with-
oute the
courte.

C And also in dyuers lozdeshyppes, and maners, there is suche custome, if suche a tenant that holdeth by the custome, wyl alyen his landes o: tenementes, he maye surrender his landes vnto the baylyffe o: to the reue, o: to two sad men of the same lozdeshypp, to the vse of hym that shal haue the lande, to haue in fee symple, fee taylor o: fo: terme of lyfe. &c. and all that shal they present at the nexte courte. And then he that shal haue the lande by coppe of court rolle, shal haue the same lande, after the entent of the surrender.

of custos
res.

C And so it is to wyte, þ in dyuers lozdeshypps, and diuers maners, there be many diuers customes, in suche case as to take tenementes, and as to pleade, and as touching other thynges and customes to be done, and al that that is not agaynst reason, may wel be admytted and allowed.

late tes-
tre.

C And suche tenauntes that holde after the custome of a seynorye, o: after the custome of a manour, thoughe they haue estate of inheritaunce after the custome of the lozdeshypp of the maner, yet bycause they haue not any freeholde, by the course of the common lawe, they be called tenants by base tenure.

quersille.

C And dyuers dyuersyttes there be betwene a tenant at wyl whiche is in by the lease of the lessour, by the course of the common

common lawe, and tenaunt after the custome of the manour, in the fourme aforesayd, for tenant at wyl after the custome may haue estate of inherytaunce (as it is aforesayd) at the lordes wyl after the custome and vse of the manour. But yf a man haue landes or tenementes, whiche be not within suche maner or lordshyppe where such custome hath ben vled in the fourme aforesaid, and wyl let such landes or tenementes to an other, to haue and to holde to him and to his heyres at þ wyl of the lessour, these wordes (to the heyres of the lessee) be boide, for this is the cause yf the lessee dye, and his heyre entrethe, the lessour shal haue a good action of trespass agaynst hym, but not so agaynst the heyre of tenant by þ custome. &c. for that the custome of þ maner in some case maye helpe hym to barre his lord in an accyon of Trespas.

Also tenant by the custome in some places ought to repaire & susteyne the houses and the other tenant at wyl ought not.

Also one by þ custome shal do fealty & the other not. And many other dyuers types there be betwene them.

Thus endeth the fyrste boke.

Bo.

Where nat at wyl hath inherytaunce and where not

HOMAGE CAP. I.



the maner
we the re
tente shal
homage.

Homage is the moost ho-
norable seruice & moost
humble seruice of reue-
rence, that a franke te-
nant may do to his lord.
For when the tenaunte
shal make homage to his
Lorde, he shal dyscende
and his heade vncouered, and his Lorde
shal sit, and the tenant shal kneele before
hym on both his knees, and holde his han-
des ioynly togyther betwene the handes
of his lorde, and shal say thus, I become
your man from this day forwarde of lyfe
and limme, & of erthly worschyp, and vnto
you shalbe true and saythfull, and bere
you faith of þ tenementes, that I clayme
to holde of you, sauing þ faith that I owe
vnto our soucraigne lorde the kyng. And
then the lorde so sittinge shal kysse hym.
¶ But if an abbotte or priour, or any o-
ther man of religyon shal make homage
vnto his lorde, he shal not saye, I become
your mā. For þ he hath professed him selfe
onely to be gods mā. But he shal say thus
I do you homage, & vnto you shalbe true
and saythful, and beare you faith for the
tenementes, that I clayme to hold of you
sauynge

the ho-
mage of a
religious
person.

saunge the sayth that I owe vnto our
Soueraygne Lorde the kynge.

Capl. i.

¶ Also if a womā sole, shal make homage
vnto her lord, she shal not say. I become
your woman. For that is not conuenient
for a woman to saye that she shal become
woman to any but onely to her husbāde
when she is wedded. But she shal saye
I make vnto you homage, and to you shal
be true and saythfull, and shal bere you
sayth of the tenementes that I holde of
you, saunge the sayth that I owe vnto
our soueraygne lord the kynge.

The ho-
mage of a
wyfe.

¶ But yf a man haue seuerall tenauncies
whiche he holdeth of seuerall lordes, that
is to say, euery tenancy by homage, then
when he maketh homage vnto one of his
lordes, he shal say in the ende of his ho-
mage, saung the sayth that I owe vnto
the kynge, and vnto my other lordes.

Homage
whā a man
holdeth of
dyuers
lordes

¶ And note wel, that none shal make ho-
mage, but suche as hath estate in fee sim-
ple, or in fee tayle, or his owne ryght, or
in an other mans right. For it is a grolid
in the law, that he that hath estate but for
terme of life, shal make noth homage, nor
take no homage. For if a womā haue lan-
des or tenementes in fee simple or in fee tayle
whiche she holdeth of her lord by homage
and taketh an husbād, and hath issue, then
the husbād in the life of his wyfe shal make

Marthe.
What re-
maunt shal
do homageD. 8. C. 4.
fol. 23.

L. b.

homage

Lyttelton liber. 2.

Cap. 2.

homage, so; that he hath ritle to haue the land by the curtesy, if he suruiue his wife and also he holdethe in the ryght of his wyfe. But a soze wue had betwene them, the Homage shall be made in bothe they; names. But yf the wife decease before homage made by the husbände, in the wifes lyfe, and the husband holdeth him selfe in as tenant by s; curtesy, then he shal make no homage vnto his lo; d, so; that that he haue as yet none estate, but so; terme of life. Moze shalbe sayde of homage in the tenure of Homage auicestrel.

¶ Fealtie, Cap. ii.

Fealtie is as much to say, as fidelitas in latyn, and when a frankere- naunte shal make fealtie to his lo; d, he shal holde his ryght hande vpon a boke and shal say thus.

The mas-
ter howe fe-
altie shalbe
made.

¶ Heare you this my lo; d, that I vnto you shall be saythful and true, and beare you saythe of the landes o; tenementes, that I clayme to holde of you, and truly to you shall do the customes, and seruices that I oughte to do vnto you at termes assigne, as God me helpe and all his sayntes, and shall kysse the boke. But he shal not kneele, when he makethe fealtie, no; shal make such humble reuerence as is aforesayd in homage. And great dyffer-
ence there is had betwene making of Fe-
altie

al
no
to
ba
C
fr
m
is
C
is
Do
wh
Jo
ma
in
bel
han
han
Do
lan
wh
B. a
gay
owe
and
and
after
the o
pon
des,
sayd

Fealtie.

Fol. xxi.

Fealtie and of Homage. For homage maye not be made but to the lord him selfe. But the steward of the lordes court, or the baylyffe may take fealtie for the lord.

¶ Also tenant for terme of lyfe shal make fealtie, and yet he shal make none Homage, and diuers other dyuersities there is betwene Homage and fealtie.

¶ Also a man may se a good note. Anno 15. E. 3. where a man and his wyfe made Homage and fealtie in the comon banke which is writte in such forme. Note that John Lenkenor, and Elizabeth his wyfe made Homage unto Wyllyam Thorne in this maner. The one and the other helde ioynlye theyr handes betwene the handes of Wyllyam Thorne, and the husband said in this wise, we unto you make Homage, and beare you saythe for the landes that we holde of A. your consour which hath graunted you our seruices in B. and in C. and the other towne. &c. agaynst al men, saving the saythe that we owe unto our soueraygne lord the kynge and to his heires, and to our other lordes and the one and the other kyssed him. And after they made fealtie, and the one and the other helde theyr handes togyther upon a boke, and the husbunde sayd 4 wordes, & both kyssed the boke. More shal be sayd of fealtie in the tenure of Socage and

Lap. E.
Diversities
betwene ho-
mage and
fealtie.

Cap. 3.

Lyttelton lybcr. ii.

and in the tenure of frankalmoigne, and
in the tenure of homage auncestrel.

Escuage. Cap. iii.

Escuage is called in latin e Scuragi-
um, that is to saye, seruice of shielde.
And suche a tenant that holdeth his
lande by escuage, holdethe by knyghtes
seruice. And also it is comonly said that
some hold by a fee of knyghtes seruice and
sbe by þ halfe fee of knyghtes seruyce. &c.
¶ And it is sayd, that whē the kyng ma-
keth a byage royal into Scotlande, for to
subdue the Scottes, than he that holdeth
by a fee of knyghtes seruice, behoueth to
be with the kyng by .xl. dayes well and
couenably arayed for the warre. And lyke
wise he that holdeth his land by the halfe
of a fee by knyghtes seruyce, ought to be
with the kyng by .xx. dayes. And he that
holdeth his land by þ fourth part of a fee
by knyghtes seruice, hym behoueth to be
with the kyng by ten dayes. And so after
the quantitie, he þ hath more, to do more
and he that hath lesse, to do lesse.

An. 7. C. 3.

¶ But it appereth by the pleses and argu-
mentes, made in a good plee vpon a wyrl
of Detinue of an oblygacyon brought by
one Henry Bray, that it nedeth not to hē
that holdethe by escuage to go hym selfe
with the king, if he wyl fynd an able per-
son for him couenably arayed for the war-
re.

For what
cause he
that hold-

Escuage.**Pol. xxi.****Capt. 3.**

to go with the kynge, and that semeth good season. For it may be, that he that holdeth by such seruyces is spece, in such wyse that he may not go nor ryde.

Death by Escuage maye fynde a man to do seruyces for hym.

¶ And also an abbotte or any other man of religion, or a woman sole that holdeth by suche seruyces, ought not in such case to go in proper person. And by Wyllyam Berke, that tyme chiefe Justyce of the chymon place, sayde in the sayd plee, that escuage shall not be graunted, but where the kynge hym selfe goeth in proper person. And so it abode in iudgement in the same plee, yf these fortye dayes shalbe accounted from the day of the muster of the kynges host made by the commons, and by the kynges commaundement, or els from the daye that the kynge by entreteth into Scorlande, &c. therefore inquire thereof.

Howe the fortye dayes shalbe accounted.

¶ And after suche byage ryal into Scotlande, it is comonly said, that by the auctorite of parlyamente, the escuage shalbe set and put in certeyne, that is for to say, a certeyne sum of money, howe much euery that holdeth by a hool fee of knyghtes seruyce, whiche was not in his owne proper person, nor none other for hi, with the kynge, shal pay vnto his lord of whom he holdeth his lande by Escuage. As it was ordeyned by auctorite of Parlyamente, that euery one that holdeth by a hool

Cap. 4.

Diversite
of Escuage

hole fee by knyghtes seruyce, which was not with the kyng, shall pay to his lord x. s. Then he that holdeth by the half of a fee by knyghtes seruyce, shall pay to his lord but. x. s. And he that holdeth by the iii. part of a fee by knyghtes seruice shall pay but. x. s. And so who more, more, and who lesse, lesse. And some tenauntes holde by the custome, that yf Escuage renewe by auctorite of Parlyament, to any sum of money, that they shall pay but the half of that summe: and some holde that they shall pay but the fourth parte of that summe. But bycause the Escuage that he shall pay, is not certeyne, what the parlyament wyll Assesse the Escuage, he holdeth by knyghtes seruice. But otherwyle it is of Escuage certeyne, of whiche shalbe spoken in the tenour of Soctage.

The com-
mon speche
of Escuage

Maxime.

And yf a man sheke generally of Escuage, it shalbe vnderstand by the common speche of Escuage, not certeyne, which is knyghtes seruyce. And such Escuage draweth vnto him homage, and homage draweth vnto him fealties, for fealties is incident to euery maner of seruyce, excepte to the tenure of Francke almoynne, as it shall besayde hereafter in the tenure of Francke almoigne. And so he that holdeth by Homage, and Escuage, holdeth by Homage, fealties, and Escuage.

And

¶ And it is to be vnderstand, that when escuage is so sealed by auctoritie of parlyament, euery lord, of whom the lande is holden by Escuage, shal haue the escuage so assessed by the Parlyament, by cause it is vnderstand by the law that at the begiuning such tenementes were gyuen by the Lordes to the tenants, to holde by suche seruices, to defende theyr lordes, as well as the kyng, and to set in quiet and rest theyr lordes and the kyng, of the Scottes aforesaid. And for that such tenementes came fyrst of the Lordes, it is reason that they haue the Escuage of their tenants.

¶ And the Lordes in suche case may dyscreyne for the Escuage so assessed, or they may haue the ainges writtes direct vnto the Sheryffes of the shyres, to leuy suche Escuage for theym, as it appereth by the Register. Folio. 88.

Dynnes for
Escuage.

¶ But of suche tenants that holde of the kyng by Escuage, whiche were not with the kyng in Scotlande, the kyng hym selfe shal haue the Escuage.

¶ Item in such case aforesaid, where the kyng maketh a viage yall into Scotlande and the Escuage is assessed by the parlyament, if the lord distreine his tenant that holdeth of hi by seruice of an holt knyghtes fee, for the Escuage so assessed, &c. And the tenant pleyeth and wyll auerre that
be

Cap. 4.

Crall.

Warde.

The full
age of a
woman.
B. 35. B. 6.
Folio. 32.

Lyttylton liber. 1.

he was with the kyng in Scotlande. &c.
by. xl. dayes, and the lord wyl auerre the
contrary, it is sayde, that it shalbe tryed
by the cerryfycayon of the Constable of
the kynges hood, in wytrynge, vnder his
seale, whiche shalbe sent to the Justices.

¶ Homage, Fealtye, and Escu-
age. Capi. iiii.

Tenure by Homage, Fealtye, and
Escuage, is to holde by knyghtes
seruyce, and it draweth vnto hym
warde mariage, and Kelyfe. For when
suche a tenaunt dyeth, and his heyre male
being within the age of. xxi. yere, the lord
shall haue the lande holden of hym vntyl
the age of. the heyre of. xxi. yere, whiche
is called playne or full age, for that suche
an heyre by the vnderstanding of the law
is not able to do knyghtes seruyce before
the age of. xxi. yere.

¶ And also if such an heyre be not mar-
ied at the tyme of the deathe of his auncer
ster, then the lord shall haue the warde,
and mariage of him. But if such a tenaunt
dye, his heyre female, beyng of the age
of. xiiii. yere or more, then the lord shall
not haue the warde neyther of the lande,
nor of the bodye. For that a woman of
such age may haue a husbande able to do
knyghtes seruyce. But yf suche an heyre
female be within the age of. xiiii. yere,
and

and not maryed, at the tyme of the deathe
of her auncester, then the lord shall haue
the warde of the lande holden of him, tyll
the age of suche an heyre female of. xvi.
yere. For that it is gyuen by the Statute
of Westminster the fyrst. Capit. 22. that by
two yere next folowynge the sayde. xiiii.
yere, the lord maye tender a conueniente
marriage, without disperagynge of suche
an heyre female. And if the Lord do not
tender her suche maryage within the said
ii. yere, then she at the ende of the said. ii.
yere may entre and put out the lord. But
if such an heyre female be maryed within
the age of. xiiii. yere in the lyfe of her aun-
cester, and her auncester dye, she beyng
within the age of. xiiii. yere, then the lord
shall haue but the warde of the lande, tyll
the ende of. xiiii. yeres of age of suche an
heyre female, and then her husbande and
she may entre into the lande, and put out
the lord, for this is out of the case of the
statute. In so much that the lord can not
tender marriage to her that is maryed. &c.
For before the sayd statute of Westmyn-
ster the fyrst, such issue female, that was
within the age of. xiiii. yere at þe tyme of
the death of her auncester, & after that she
had accomplished the age of. 14. yere with-
out any tender of marriage to her by þe lord
such an heyre female she myght enter into

Lyttylton liber. 2.

Capit. 4.

the lande, and put out the lord, as it appeareth by the rehearsal, & by the wordes of the same statute, so that the sayd statute of Westminster the first was made in such case al for the aduancement of þ lord, as it semeth. But yet at al tymes it is vnderstand by the wordes of the same statute that the lord shal not haue the. ii. yeres, after the. xiiii. yere, as it is aforesayd.

The full
age and age
of discreti-
on.

¶ And note wel, that the full age of hēre male and female, after the common spech is sayd the age of .xxi. And þ age of discretiō is sayd the age of .xiiii. yere for a childe at such age, which is wedded with in suche age to a woman, may agre to the marpage or disagree.

The lord
shall haue
but ones
the mary-
age of his
warde.

¶ And if the wardene in chivalry mary ones his warde in the age of .xiiii. yere to a wife, and after if he at the age of .xxi. yere disagree to þ marpage, it is said by some þ the chylde is not holden by the law to be married an other tyme by his wardene, for that the wardene had once the mariage of him, and therfore he was out of his warde, as concerning the warde of his body. And whē he had ones the mary age of him, & ones was out of his warde, he shal haue no more þ mariage of hi. In the same maner it is, if þ wardein marye him, and the wyfe dye, the chylde beyng within age of .xiiii. yere, or .xxi. yeres.

And

¶ And that ſuche chylde may diſagree to ſuch marriage, when he cometh to the age of. xiii. yere it is proued by þ words of þ ſtatute of merto Cap. 6. that ſayeth thus

De deminis q̄ maritauerint illos quos habet in cuſtodia ſua billantſ, vel aliis ſi tur burgencibus, ubi diſperagent, ſi talis heres fuerit infra. xiii. annos et talis etatis, q̄ inſi manio cōſentire non poſſit, tūc ſi parentes illius cōquerantur, dñs amittat cuſtodia illam vſq; ad etatem heredis. Et omne cōmodum q̄ inde receptū fuerit cōuertatur ad cōmodum heredis infra etate exiſtentis, ſecundū diſpoſitionē parentū propter dedecus ei factū. Si autē fuerit. xiii. annorum et vltra, quod conſentire poſſit, et tali matrimonio cōſenſerit nulla ſequatur pena. And ſo it is proued by the ſame ſtatute, þ no diſperage ſhall be, but where he that hath the warde, marrye the him within the age of. xiii. yere.

¶ Alſo it hath bene a queſtion howe theſe wordes ſhulde be vnderſtande, Si parentes conquerantur. &c. And it ſemethe vnto ſome, which conſiderynge the ſtatute of Magna carta. Capi. vi. that wylleth that herebes maritentur abſque diſperagatione. &c. vpon whiche this ſayde ſtatute of Merton, vpon this poynte is grounded as it ſemethe, and in ſo muche that it was neuer ſene no; harde.

D. ii.

that

Queſtion.

Lyttelton liber .x.

Capl. 4.

that any action was brought upon the statute of Merton, for such desperagynge agaynst the wardyn for the cause aforesaid. And if any action may be taken by such matter, it shulde be taken by common presumption before this tyme, or at some time to be put in by. And note, that these wordes shalbe binder and in such maner

The exposi-
tion of
these wor-
des. Si pa-
rentes con-
querantur.

Si parentes conquerantur. i. si parentes inter se lamentantur, whiche is as much to say, that yf the cousins of such a child haue cause to make lamentacyon or complaynt among them, for the shame done to theyr cousin so desperaged, which in maner is a shame to them all, then maye the next cousin, to whome the heritagage may not descend, enter and put out the warden in chivalry. And if he wyl not, an other cousin of the chyldes may do it, and he to take the issues and profytes of the chyld and of that yelde the chyld accept, when he commeth to his ful age. Or els yf chyld within age may entre hym selfe, and put out the warden. &c. Sed quere de hoc.

Inquire.

Others dys-
peragynge

Also there be many other dyuers desperagynge, which be not specified in the same estatute. As if the heire yf is in ward be married vnto one that hath but one fore or one hande, or is deformed or lame, or hauing an horrible disease, or els a great and continual infirmite, or if the heire male be married

Dom. fe. and Escuage. fo. xxiij.

marryed to a woman that is paste chylde
bearing. And many other causes of dis-
peraging there be, but enqyre of them,
foz it is good matter to learne.

¶ And of heires males that be withi age
of. xxi. yere after the death of these aunce-
sters vnmarried. In such case the lord shal
haue the mariage of such an heyze, & haue
space and tyme to tender to hym couena-
ble marpage, without disperagynge with
in the same tyme of. xxi. yeres.

¶ And it is to wit, that the heyze in such
case may chose if he wil be marryed or not.
But if the lord, whiche is called wardcin
in chivalce, tender a couenable mariage
to such an heire, withi the age of. xxi. yere
without disperagynge, and the heyze re-
fuse it, and wyl not be married within the
same age, then the sarde wardeyne shal
haue the value of the marpage of such an
heyze. But if suche an heyze male marre
hym selfe within the age of. xxi. yere a-
gaynst the wyl of the wardeyne in chival
tye. Then shal the wardeyn haue double
the value of the marpage by force of the
statute of Merton aforesayde as in the
same statute is moze fully compziled.

¶ Also dyuerse ternautes holde of theyr
Lordes by knyghtes seruyce, and yet
they hold not by escuage, nor paye no es-
cuage, as they that holde theyr landes by

Cap. 4.
Inquere.

If that the
warde re-
fuse the ma-
ryage, he
shal pay.

Lyttelton liber. 2.

Capl. 5.

Castelle
warde.

castel ward, that is to say to kepe a towre
of a castel or a gate, or some other place of
the castel by reasonable warning, when
they lordes here tell, that enemyes wyl
come, or be come into Englande.

Maxime.

¶ And in manye other cases a man may
hold by knyghtes seruice, and yet he hold
derth not by escuage nor paiceth no escuage
as shalbe said in þe tenure of grand seriant
But in al cases where a man holdeth by
knyghtes seruices, such seruices shal weth
binto the lord, warde, and mariage.

Reliefe.

¶ And if a tenant that holdeth by seruice
of an hole knyghtes fee, dy, his heire be-
inge at ful age of .xxi. yere, then the lord
shal haue. l. s. for a reliefe. And of þe heire
of hi that holdeth by halfe a knyghtes fee
l. s. And of him that holdeth by a quarter
of a knyghtes fee. .xxv. s. And he that hath
more, more, and he that hath lesse, lesse.

¶ Also a man may holde his lande of his
lord by the seruice of two knyghtes fees,
and then the heire being of ful age at the
tyme of the deathe of his auuncle, shal
paye to his lord. .xl. s. for reliefe.

The father
pynge the
sonne shal
not be bu-
der gorce-
saunce of a
or other.

¶ Also if there be grandfather, mother,
and son, and the mother dyeth, the father
and the son lyving, and after the grand-
father, which held his lande by knyghtes
seruice, dyeth seised, and the land descen-
deth to the son of the mother, as heire to
the

Hom. fe. and Escu. Fol. xxviii.

the grandfather, which is withi age. In such case the lozde shal haue the warde of the lande. But not the warde of the body of the heyre. For þ none shalbe in warde of his body to any lozd, his father liuing because þ father during his life shal haue the mariage of his heyre apparant, & not the lozd. Otherwysse it is, if the father be dead, the mother lyuing, where the lande holden in chynalye descendeth to the son on the fathers syde. &c.

Cap. 4.

¶ Also if a man be seyled of land, which is holden by knyghtes seruyce, and makethe feoff cimente in fee to his blc, and dyeth seased to the blc of his heyre with in age, and no wyll by hym declared, the lozde shal haue a wyrtre of ryght, of the warde of the body, and of the lande, as if the tenant had died seised of the demesne. And if the heyre be of ful age at the death of his auncester, in such case he shal pay reliefe, lyke as if he had ben seased of the demesne, and that is by the statute of. An. 4. B. 7. Cap. 17.

Gar-dryne
by reason
of blc.

¶ Also there is wardayne in ryght chynalye, and wardain in dede in chynalye. Wardayne in ryght chynalye, is where the lozde by cause of his lozdeschyp is seyled of þ warde of the land, & the heyre bt sup: a. warden i dede in chynalye is wher the Lozde in such case after his seysyne

Distinction.

Gar-dryne
in ryght.

D. iiii,

graunteth

Capl. 5.
Sardegne
in dede.

Pytton liber. 2.

graunteth by dede, or without dede, the ward of the lande, or of the herze, or of both, to an other man, by force of whiche graunt the grauntee is in possessyon, then is the grauntee called wardein in dede, &c.

Tenure in Socage. Cap. b.

Tenure in socage, is where þ tenant holdeth of his lord his lade, by certayne seruice, for al maner of seruices, so that the seruyce be not knyghtes seruice. As where a mā holdeth his lande of his lord by fealtie & certayn rent, for al maner of seruices, or els wher a man holdeth his land by homage, fealte, & certayn rent for al maner of seruices: for homage by him selfe maketh not knyghtes seruice.

what is te-
nure in so-
cage.

Also a man may holde of his lord only by fealtie, and suche tenure is tenure in socage, for every tenure that is not tenure in chivalry, is tenure in socage.

And it is sayde that the cause whercof such tenure is sayd, and hath the name of tenure in socage, is thus. Quia hoc socagium, idem est quod seruicium soc, hec soca soca, idem est quod catua. s. one soke or one plowe land. And in olde time befoze the limitacyon of tyme of mynde great part of theyr tenants, that held of theyr lordes by socage ought to come w theyr plowes euery of the sayde tenants by certayne dayes in the yere to care and

some

Some the lordes landes of his owne gra-
nes. But for that such woꝝkes were done
for the lyuelode and sustinaunce of theyꝝ
lordes, they were acquitted agaynst theyꝝ
lordes, of al maner of seruices.

¶ And for this that suche seruites were
doone with theyꝝ plowes, suche tenure
was called tenure in socage. And also that
such seruites were changed in diuers o-
ther maner seruices, by consent of the te-
nantes, and by the desyre of theyꝝ lordes
that is to saye, into a yerely rent. &c. But
yet the name of socage abideth, and in di-
uers places those tenantes yet do such ser-
uice with theyꝝ plowes vnto theyꝝ lordes
so þat al maner of tenures þat be not tenures
by knight seruice, be called tenures in socage.

¶ Also if a man hold of his lord by escu-
age certain, that is to say, in suche forme
that when escuage renneth, and is asses-
sed by the parliamente to a moze summe,
oꝝ to a lesse summe, then the tenaunt shal
pay to his lord but halfe a marke for es-
cuage, and neyther moze ne lesse, to howe
great summe oꝝ litle summe that the es-
cuage runneth, in this case because the
summe þat he shal pay for the escuage is in-
certayne before that any escuage is asses-
sed. &c. suche tenure is tenure in Socage.
And not by knyghtes seruice. But where
the summe that the tenaunte shal paye

Lyttelton liber. 2.

Cap. 3.

In other
offence.

Marline.
Rene lers
ofce.

The next
freende

foz elcuage is not certayne, that is to say
where it may be, that the summe that the
tenant shal pay to his lozde foz Elcuage.
may be at one tyme moze, and at an other
tyme lesse, after that it is assessed. &c. then
such tenure is tenure by knightes service
¶ Also if a man holde his land foz to pay
certaine rent to his lozd foz castel warde,
suche tenure is tenure in socage. But
where the tenant ought by hym selfe, oz
by an other to make castell warde, such
tenure is tenure by knightes scrupce.
¶ Also in al cases where the tenant hold-
eth of his lozde, to paye to hym any cer-
tayne rent that rent is called rent service
¶ Also in such tenure in Socage, yf the
tenant haue issue and dye, his issue beinge
within the age of. x4. yeres, then the next
freende of the heyze, to whome the hey-
rage may not descend, shal haue the ward
of the land, and of the heyze, vnto the age
of the heyze of. xiiii. yeres, and such war-
dein is called wardein in socage. For yf
lande discende to the heyze by the fathers
side, the mother, oz some other nyghe
cousin of the mothers syde, shal haue the
ward. And if land discend to the heyze by
the mother syde, then the father, oz the
next freend of the fathers side, shal haue
the warde of such landes oz tenementes.
And when the heyze cometh to the age
of

Socage.**Pol. xxx.****Capl. 3.**

of. xliii. yere complete, he maye entre and put out his wardein in socage, and occupie the land him selfe if he wyl.

¶ And such wardein in socage shall take no issues or profites of such landes or tenementes to his owne use, but onely to his use and profit of the heyre, and of that he shall yelde accompte to the heyre, when it pleaseth the heyre, after that the heyre hath accomplished the age of. xliii. yeres. But such a wardein upon suche accompte shall haue allowance of al his reasonable costes & expences of al thinges, as of meat drinke and other necessaries. &c.

¶ And if such a wardein marrye the heyre within age of. xliii. yere, he shall make accompte to the heyre, or to his executours of the value of the maryage; though he toke nothyng for the value of his maryage for he shall be erected his owne folow, that he wold marrye hym without takinge the value of the maryage, without he marrye him to such a maryage he is woorthy in value, as much as his mariage of his heire. &c.

¶ Also if any other man that is not a nigh freend. &c. occupie the landes, & tenementes of the heyre, as wardein in socage, he shall be compelled to yelde accompte unto the heyre, as wel as his next freend. For it is no place for hym in a wytt of accompte to saye, that he is not his nigh

The gouernour shall
giue accōpt
to the heyre

In othe
gouernours

Lyttelton liber. 2.

Cap. 5.

Inquire.

nygh frend. &c. But he shal answere whe-
ther he occupieth the landes oꝝ tenemen-
tes, as wardein in socage oꝝ not.

¶ But enquire vñ after that the heyze
haue accomplisshed the age of. xiiii. yeres
and the wardein in socage continuallye
occupieth the lande tyl the heyze comethe
to ful age of. xxi. yeres, yf the heyze at his
ful age shal haue an action of accompt a-
gaynst the wardeine of the tyme that he
hath occupied after the sayde. xiiii. yeres,
agaynst him, as agaynst his wardeine in
Socage, oꝝ agaynst hym, as agaynst his
hayliffe.

¶ If the wardein in chivalrye make his
executours, and dye, the heyze being with
in age .&c. the executours shal haue the
warde duryng the nonenage. But yf the
wardeins in socage make executours and
dye, the heyze beyng within age of. xiiii.
yeres, his executours shal not haue the
warde, but an other nyghe freende, to
whom the heritage may not discend, shal
haue the warde.

A notable
difference.

If the war-
dein in So-
cage dye be-
fore any ac-
compte made
the heyze is

¶ And the cause of diuersitie is, soꝝ that
the wardeyne in chivalry hath the warde
to his propre vse, and the wardeyne in so-
cage hath not the warde to his owne vse
hut to the vse of the heyze.

¶ And in such case where the wardeyne
in socage dieth befoꝝe any such accompte
made

ma-
th-
of
bu-
¶
ho-
na-
If
ren-
me-
by-
of
ren-
As
tic-
ter-
pay-
r. s.
¶
cer-
and
and
yng
no
han-
and
¶
tena-
ner,
he p-
a loz

made by hym to the heyre, the heyre is of
that without remedy, for that no wytte
of accompt lyeth agaynst the executors,
but onely for the hyng.

Capl. 5.
without re-
medy.
The p[ro]p[ri]e
gairne of
the hyng.

¶ Also the lord, of whome the lande is
holden in socage, after the death of his re-
naut, shal haue chiefe in suche fourme.
If the tenant hold by fealtie and certain
rent to pay yerely. &c. If the terme of pay-
ment be to pay by .ii. termes of þ yere, or
by .4. termes of þ yere, the lord shal haue
of the heyre of his tenant, as much as the
rent amou[n]teth that he shuld pay by yere.
As if the tenant helde of the lord by feal-
tie, and .r. s. of rent, payable at certayne
termes of the yere, then the heyre shal
pay to the lord .r. s. for reliefe, about this
.r. s. that he shal pay for the rent.

Reliefe in
tenure of
socage.

¶ In speke maner is if a man be seised of
certayne lande, that is holden in Socage
and maketh a feoffment in fee to his ble
and dieth seised of the ble (his heyre be-
yng of þ age of .xiiii. yeres or moze) and
no wyll by hym declared, the lord shal
haue reliefe of the heyre as is aforesayde
and this is by þ sta. of an. 12. B. 7. ca. 15
¶ And in such case after the death of the
tenant such relief is due to þ lord in hey-
ner, of what age so euer the heyre be, so þ
he passe the age of .xiiii. yeres, for þe
a lord may not haue the ward of the body
no?

Lyttelton liber. 2.

Cap. 5.

noꝝ of the land of the heȝȝe. And the loꝝde in ſuch caſe ought not to abyde the paye-
mente of his reliefe after the termes and
daies of paymēt of the rent, but he ought
to haue his reliefe incontineēt. And ther-
foꝝe he maye incontinent dyſtreynē after
the death of his tenant foꝝ the reliefe.

When the
lande ſhal
dyſtreynē in
continente,
and when
he ought to
ſarpe.

In the ſame maner it is, where a tena-
te holdeth of his loꝝd by ſcaltie, & by a poſide
of cōmin, oꝝ by a pounde of pepper, beſide
the common rent, and the tenant dye, the
loꝝde ſhal haue foꝝ his reliefe, a pound of
cummyſyn, oꝝ a pounde of pepper.

In the ſame maner it is, where the re-
nante holdeth to paye by yere a certayne
numbꝛe of capons oꝝ hennēs, oꝝ a payꝛe
of gloues, oꝝ certayne buſhels of wheate
and ſuche other maner thyng. But in
ſome caſe the loꝝde ought to abyde to dy-
ſtreynē foꝝ his reliefe tyl a certayne time

As if the tenant holde of his loꝝde by a
roſe, oꝝ by a buſhell of roſes, to pay at the
feſt of ſaynt Iohn Baptyſt, if ſuch a te-
nant dye in winter, the the loꝝd may not
dyſtreynē foꝝ his reliefe. &c. vntil the time
that ꝑ roſes by the couꝛſe of the yere may
haue theyꝛ growinges. &c. et ſic de ſimi.

A queſtion.

Alſo if any peraduſture wil aſke why
a man may not holde of his loꝝd by ſcalty
onely foꝝ al maner of ſeruices, in ſo much
that when the tenant ſhal make his ſcal-

tie

Socag:

Pol. xxii:

Capi. 5.

He shal swere to his lord, that he shal
do to his lord al maner of seruices due, &
when he hath made fealtie in suche case,
there is none other seruyce due. To this
it may be sayd, that where the tenant hol-
deth his land of his lord, it behoueth that
he ought to do to his lord some maner of
seruice, for if the ternaunt nor his heyres
oughte to do no maner of seruyce to his
lord, nor to his heyres, then by long tyme
continued, it shulde be out of mynd & reme-
mbrance, of whom the lande was holden, of
the lord or of his heyre or not, & the more
often and more soner wyl men say that the
land is not holden of the lord, nor of his
heyres the other way, & upon this the lord
shal lose his escheate of the lande, or please
the forfeiture or profite that he myght haue
of the landes. So it is reason that the lord
and his heyres haue some seruice done by
to them for a pzoofe, & a wytnesse, that the
land is holden of them, & for that fealtie
is incident to al maner of tenures, except
tenure of franke almoigne, as it shal be
said in franke almoigne. And bycause that
the lord wyl not at the begynnyng of the
tenure haue any other seruices but feal-
tie, it is reason that a man may holde of his
lord only by fealtie, & when he hath made
his fealty, he hath done al his seruices.

Also if a man let to an other for tyme of
lyfe

Answer:

**Wherefore
said is giv-
uen.**

A rule.

Cap. 5.

lyfe certayne landes oꝝ tenementes, wíth
out spcakynge of any rent to yelde to him
yet he shall do to the lessour fealtye, foꝝ þ
he holdeth of him. Also if a lease be made
to a man foꝝ terme of yeres, it is sayd, the
lessee shall do the lessour fealtye, foꝝ that
he holdeth of him, and this is proued wel
by the wordes in a writ of wast, whē the
lessour had caused to byrte a wyrtte of
wast agaynst hym, the whiche writ sayde
that the lessee holdeth the tenementes of
the lessour foꝝ terme of yeres, so the writ
proueth a tenure betwene thē. &c. But he
that is tenant at wyl after the course of
the comunon lawe, shall not make fealtye,
bycause he hath no maner of sure estate.
But otherwise it is of tenāt at wyl after
the custome of the manour, bycause þ he is
bounde to do fealtye to his lord foꝝ two
causes, one is bycause of custome, the o-
ther is bycause he taketh his estate i such
forme, to do to his lord fealtye.

The forme
of a wyrt of
wast.

¶ Franke almoynne. Cap. vi.

Tenure in franke almoigne, is wher
an abbote oꝝ a pꝛour, oꝝ an other
man of relygion, oꝝ of holy church
holdeth of his lord in franke almoynne,
that is to say in latyne. In liberam ele-
mosinam, that is to saye, in free almes,

The begyn-
nyng of the
And such tenure begā fyrst in old tyme
in such forme, whē a mā in old tyme was
seple

Frank almoigne. Pol. xxviii.

Cap. 6.

seised of landes oꝝ tenementes in his demesne as of fee, and of the same landes oꝝ tenementes enfeoffed an abbotte and his couent, oꝝ a priour & his couent, to haue and to hold to the, & theyꝝ successours for ever, in pure and perpetual almesse, oꝝ in franke almoigne. In these two cases the landes were holden in franke almoigne. oꝝ by such wordes to holde of the grauntour, oꝝ of the feffour, and his heyꝝes in free almesse; in these two cases the tenementes were holden in frank almoigne.

¶ And in the same maner it is, where the landes oꝝ tenementes were graunted in old tyme to a dean and chapter, and to theyꝝ successours, oꝝ to a person of a churche, and to his successours, oꝝ to any other man of holy churche, and to his successours in free almesse, yf he had capacite to take suche grauntes oꝝ feoffementes. &c.

¶ And suche as holde in free almesse be bound of ryght before god, to do orisons, prayes, masses, and other diuine seruice for the soules of theyꝝ grauntours oꝝ feffours, oꝝ for the soules of theyꝝ heyꝝes whiche be deade, and for the prosperite and good lyfe, and good health of theyꝝ heyꝝes that be alive.

¶ And so; this they do at no time no manner of fealtie vnto theyꝝ lordes, for that suche diuine seruyce is better for theym

E. i.

before

Capl. 6.
Tenant in
free almes
shall do no
homage.

before God, then anye hope of fealtie,
and also that these wordes, free almesse,
or franke almoynne exclude the lord to
haue any worldly or temporall recoverye,
but only to haue diuine and spiritual rec-
uyce to be done for him. &c.

¶ And if suche that hold theyr tenement-
tes in free almes, or in franke almoynne
wyl not, or sayle to do suche diuine rec-
uyce, as it is sayde, the lord may not dy-
strepne them for the seruice vndone. &c.
bycause it is not sette in certayne, what
seruices they ought to do, but the lord
may of that complayne to theyr odyne-
tie, praye him that he wyl let punish-
ment and correction of that.

¶ And also to prouide and le, that suche
neglygence be no more done, and the o-
dynary of ryght ought to do that.

Tenant by
dynne ser-
uyce.

¶ But where an abbot or a prioure hol-
deth of his lord by certayne dyuine ser-
uice, in certayne to be done, as for to sing
a masse euery friday in the weke for the
soules. &c. or euery yere at suche a day to
syng Blaccho and Dirige. &c. or to distri-
bute in almes to an hundred pooer men
an hundred pence at such a daye, in suche
case yf suche dyuine seruice be not done,
the lord may distrepne. &c. for that tyme
dynne seruice is in certayne by theyr
tenure

Frank almoygne. Fol. cxxiii.

tenure, what the abbott or the priour ought to do. And in such case the lord shall haue the fealty: &c. as it semeth.

¶ And such tenure is not sayde tenure in free almesse, but it is sayde tenure by diuine seruice, for in tenure is free almesse or franke almoygne, no mencioni is made of any maner certayne seruyce. For none maye holde in free almesse or franke almoygne, if there be expessed any maner of certayne seruice that he ought to do.

¶ Also yf it be demaunded whether the tenant in franke marriage shall do fealty to the donour, or to his heires, before the fourth degree be passed. &c. ye maye answer and saye ye, for he is not lyke as to this entent to a tenant in free almes, or franke almoygne, for that the tenant in free almes shall do by cause of his tenure diuine seruice for his lord, as it is aforesaid, and that he is charged to do by the law of holy church, and for that he is excused & discharged of fealty. But tenant in franke marriage doth not for his tenure such seruyce. And if he do not to his lord fealty, then he doth not to his lord any maner of seruyce neyther spiritual ne temporal, which shulde be an inconuenyence and agaynst reason that a man shuld haue estate of inheritance of an other, and yet his lord shall haue no maner of seruice of him.

E.ii.

and

Cap. 4

Abundant

In answer

and so it semeth, that he shal do fealtie to his lord, befoze the fourth degree be past. &c. And when he hath done fealtie, he hath done al his seruices.

¶ And if an abbot hold of his lord in free almesse, and the abbot and his couent vnder theyr common scale, alyene the same lande to a secular man in fee simple, in this case the secular man shal do fealtie to the lord, for that he maye not holde of his lord in free almesse, for yf the lord ought not to haue of hym fealtie, then he shal haue of hym no maner of seruyce which shulde be an inconuenience, where he is lord, & the tenementes holden of him.

¶ Also if a man graunt at this day to an abbot or to a priour landes or tenementes in free almesse or franke almoigne, these wordes free almesse or franke almoigne be bothe, for that it is ordeyned by the statute, which is called. Quia emptores terrarum, which statute was made. An. 18. E. primi, that no man maye alyene or graunte landes or tenementes in fee simple to holde of him selfe: so that yf a man seyled of certayne landes or tenementes which he holdeth of his lord by knyghtes seruyce, and at this daye he graunteth by licence the same lande to an abbot. &c. in free almes or franke almoigne, the abbot shal hold immediarly the same tenementes

Destinyne
ter the. iii.

Frank' almoigne.

No. xxxv.

tes by knightes seruice of the same lord, of whom his grauntour helde, and shall not hold of his grauntour, by cause of the same estatute, so that no man may hold in free almes or in franke alimoygne, but if it be by title of prescription, or by force of a graunt made to some of his predecessours, before the same statute was made.

¶ But the kynge may gyue landes or tenementes in fee simple, to holde in free almes or franke alimoygne, or by other seruices, for he is out of þe case of þe statute.

¶ And note wel, that no man may holde landes or tenementes in free almes, but of the grauntour or his heires, and that for the privity of the gyfte, & therefore it is sayde, that if there be lord, mesne, and tenant, and the tenant is an abbot, that holdeth of his mesne in franke alimoygne if the mesne die without heire, the þe mesnaltie shall come by eschete to þe sayd lord above, and the abbot then shall holde of him immediatly only by fealty, and shall do him fealty, for that he may not holde of hym in franke alimoygne, &c.

¶ And note wel, where that suche a man of religiõ holdeth his landes of his lord in free almes. &c. his lord is bound by the law to acquite him of euery maner of seruice, þe any lord above him, wyl demande or aske of the same tenementes. And if he

E.iii.

acquite

Cap. 6.

þ. 12. C.
en affire.

The kynge
is above
his laws.

Lyttelton liber. 2.

Capl. 7.
writte of
mesne.

acqwyte hym not, but suffereth hym to be
dyscreyned. .3c. the he shal haue agaynst hys
lozde a writ of mesne, and recouer agaynst
hym his damages and costes of his sute.

Homage aunccestrel. Cap. vii.

Tenure by homage aunccestrell, is
where a tenant holdeth his land of
his lozde by homage, and the same
tenant and his aunccester, whose heyre he
is, haue holde the same lande of the sayd
lozde, and of his aunccesters, whose heyre
he is, frō tyme out of mynde, by homage
and haue done homage vnto hi. And this
is called homage aunccestrell, by cause of
the cōtynuance which hath bene by title
of prescription in the tenancy, in f bloud
of the ternaunt, and also in the lozdeshypp,
in the bloude of the lozde.

tenantis.

And such seruice of homage aunccestrel
dwarerth to hi warrantie, þ is to say, if the
lozd þ is alrue hath receyned the homage
of such a tenant, he ought to warrant his
tenant, whē he is impleded of the landes
holden of hym by homage aunccestrell.

quittance.

And also such seruice by homage aunc-
cestrel dwarerth to hi ardraunce, þ is to say þ
the lozd ought to acqit hys tenat agast al o
ther lordys aboue hi of every man of seruice

When the
lozde is
quande to.

And it is sayde, that if such ternaunt be
impleded by a pzeipe & reddat. .3c. And
he boucheth his lozde to warrantie which
commeth.

Hom. auncetrel.

So, rrb

edmerth in by p[ro]c[ess]e, and asketh of the te-
nant what he hath to bynde him to war-
rantie, and he sheweth how he & his aun-
cesters, whose heyre he is, haue holdē the
lande of the bouche and of his auncesters
whose heyre he is, by homage fro tyme
out of mind, if the lo[rd] which is bouched
hath receyued none homage of the tenant
no[?] of any of his aneesters, the lo[rd]e then
if he wyl may disclayne in the lo[rd]eshipp
and so put out the tenant of his warrātie
But if the lo[rd]e, which is bouched, hath
receiued homage of the tenant, o[?] of any
of his ancesters, thē may he not disclaime
but he is bounde by the lawe to warrant
the tenant, & then if p[er] tenant lese p[er] lande
in defaute of the bouche, he shall recouer
in balue against the bouche of p[er] landes o[?]
tenementes, that the bouche had at the
tyme of the bouche, o[?] any tyme after.

Cap. 7.
warrantie

Disclaime

Recouerth
in balus.

¶ And it is to wete, that in euerye case
where the lo[rd] may disclaime in his lo[rd]-
shipp by the law in court of reco[rd]e, and of
p[er] wyl disclayne, his seignorie is extincte
and the tenant shall hold of the lo[rd] next
about the lo[rd]e, whiche so disclaymeth.

A rule.

¶ But if an abbot o[?] a p[er]our be bouched,
by fo[?]re of homage auncetrel. &c. though he
be hath neuer takē homage. &c. yet he can
not disclayne in this case, no[?] in noue o[?] -
ther case, fo[?] they cā not deuēt p[er] thing in

C. iiii.

for

Capl. 7.

§. 10. C. 4.

fee, which hath ben bested in theyr house
¶ Also if a man that holdeth his land by
homage auncestrel, alieneth his lande to
an other in fee, the aliene shal do homage
to his lord. But he holdeth not of his lord
by homage auncestrel, for that the tenacy
was not continued in the blood of the aun-
cesters of the aliene, nor the aliene shall
neither haue the warrantie of his land, of
his lord, for that the continuance of the
tenaunce in the tenant and in his blood
by the alienacion is discontinued: and so
fe, that the tenaunt that holdeth his land
by homage auncestrel of his lord, if such
a tenant alieneth in fee, though he take
estate of the aliene agayne in fee, he hol-
deth the lande by homage, but not by ho-
mage auncestrell.

A man shall
make ho-
mage but
ones in his
lyfe.

¶ Also it is sayde, that if a man hold his
lande of his lord by homage and fealtie,
and he hath made homage and fealtie un-
to his lord, and the lord hath issue a son
and dieth, and the lordes hypppe descendeth
to his son: In this case the tenant, which
dyd homage to the father, shal not do ho-
mage to the son, for that when a tenant
hath made ones homage to his lord, he
is excused for terme of his lyfe, to make
homage to any other heyre of the lord.
But yet he shall do fealtie to the son and
heyre of his lord, though he that he made
fealtie.

Homage auncestre. fol. xxxvii.

fealties to his father.

Lapl. 71

¶ Also if the Lozde after the homage to him made by his ternaunt, graunt the ser- uice of his tenant by dede vnto an other in fee, and the tenant attourneth. &c. the tenant shal not be cōpelled to do homage but he shall do fealties though he dyd fe- altye befoze to the grauntour, for fealtye is incident to euery attoznement of tene- mentes, when the lordshipp is graunted. But if a man be seyled of a manour, and an other man holdeth his land of him as of the manour aforesayd by homage, the whiche hath done homage to his Lozde, whiche is sealed of the manour, yf after that a straunger hyngge a Wrecipe quod reddat, agaynst the lozde of the manour and recouereth the manour agaynst him, shewethe execution. &c. In thys case the ternaunte shal ones agayne do homage to hym, that recouereth the manour, all be it he hath once done homage befoze, for that the state of hym, whiche recey- ued the fyfte homage, is defeted by the recouerye. And it shall not lye in the mouth of the ternaunt to falsfyre or de- fete the recouerye, whiche was agaynst his lozde, and so se the dyuersitie in this case, where a man cometh to his lozde- shippe by recouerye, and where he com- eth by descent or grafit of the seignory.

A rule.
When a man
shall make
his homage.

Diversitie

E. b.

Also

Lyttelton libet. 2.

Cap. 7.
When the
tenant shall
not be dy-
creyned,
when he
doth no ho-
mage.

¶ Also if a tenant, which ought by his tenure to do homage to his lord, come to his lord and say to him, say: I owe to do unto you homage for the tenementes, that I holde of you, & I am redye here to do you homage, for the same tenementes for the whiche I pray you that ye wyl notwe receyue it of me, and if the lord the refuse to receyue it, then after suche refuse the lord may not distreyn the tenant for the homage vndone, before that the lord requyre the tenant to do to hym homage, and the tenant refuse to do it.

¶ Also a man may holde his lande by homage ancestrel, & by escuage, or by other knightes seruice, as wel as he might hold his lande by homage ancestrel in socage.

¶ Graunde sergeantie. Cap. viii.

Tenure by graunde sergeantye is where a man holdethe his landes and tenementes of our soueraygne lord the kynge, by the seruyce which he ought to do in his owne propre personne as to beare the kynges banner, or his speare, or to leade his hooſte, or to be his maſſall, or to beare his ſwoorde before hi at his coronacion, or to be his ſewer at his coronacion, or his carner, or his butler, or to be one of his chamberlaynes of his receyte of his eschequer, or to do o- ther ſuch ſeruyce, &c. and the cause where-
to.

Grande sergeantie.

Fol. xxi. biii.

Cap. 8.
The mooste
honourable
holde.

foz such service is called great seriantye
is foz that it is moze honourable & woze
shipfull and digne, then is the scrupce of
the tenure by escuage, foz he that holdeth
by escuage is not ly mittred by his tenure
to do anye moze specyall scrupce, then a-
nye other that holdeth by Escuage ought
to do. But he that holdeth by grande
seriantye, ought to do a specyall serurce
to the kynge, he that holdeth by escuage
ought not so to do.

Reliefe.

¶ Also if the tenant which holdeth by es-
cuage die, his heyre beyng at ful age, if he
held by a knyghtes fee, the heyre shall pay
but an. l. s. foz his reliefe, as it is orde-
ned by the statute of magna carta. Ca. ii.
but he that holdeth of the kynge by grand
sergeantie, and dyeth, his heyre beyng
of full age, the heyre shall paye vnto the
kynge foz his reliefe, the value of hys
landes oꝝ tenementes by yere, besyde the
charges and repzises, whiche he holdeth
of the kynge by grande sergeantie.

¶ And it is to wyte, that seriantia, in la-
tine is seruicium, and so magna seriantia
in latine, is as much as magnum seruici-
um, that is to say, a greate scrupce.

¶ Also those whiche holde by Escuage,
oughte to doo thepꝝ scrupce out of the
realme, but they that holde by graunde
sergeantie, foz the mooste parte oughte
to

Lyttelton liber. 2.

Cap. 3.
Howe fe-
dure by co-
nage is
grande ser-
uantie.

to do they? seruices within the realme.
¶ Also it is sayd, that in the marches of
Scotlande some holde of the king by co-
nage, that is to say, to blow an hoꝛne foꝛ
to warne the men of the contrey. &c. whē
they here that the Scottes oꝛ other enne-
mies wyl come oꝛ entre into England
&c. which seruice is graunde sericantie.
¶ But if any tenaunt holde of any other
loꝛd thē of the king by such seruice of co-
nage, y is not graunde serianty, but it is
knightes seruice, & dꝛaweth to him ward
marriage, & relyfe, foꝛ none may holde by
grande seriantye, but of the kinge onely.
¶ Also a man maye se in the .xi. pere of
Henry the fourth, that Tokainethen be-
yng cheife baron of the eschequer, came
into the common place, byyngyng with
him a coppe of recoꝛde in these wordes.
Halis tenet tantam terram de dñō rege,
per seriantium, ad inueniendū bñū homi-
nem ad guerrā infra quatuor maria. &c.
that is to say, such a mā holdeth so much
lande of our soueraygne loꝛde the kyng
by seriantye, to fynd one manne to warre
within the foure seas, and he demaunded
whether it was graunde seriantye oꝛ pe-
tite serianty, and Danke then sayde that
it was graunde seriantie, foꝛ that it was
seruyce to be done by the bodye of a man
and if that he may not find a mā to do the
seruyce.

ser-
wh
the
rel
to
C
hyn
hyn
Ma
Bu
age

I
bur
a da
of g
gyl
oꝛ to
touc
is bu
rena
noꝛ
perfe
yeld
bnto
a ren
C
by ge
geau

Petite sergeauntie.

Fol. xxxij.

service to; him, he must do it him self. To **Cap. 9.**

whom the other Justices assented. Cokam then said, the tenant in this case shal pay relesce to the value of the lande by yere, to whiche was made none answer.

¶ And note that all they that hold of the kyng by grande sergeantie, holde of the kyng by knyghtes service, and the kyng shal haue warde, maryage, and relesce. But the kyng shal not haue of them escuage, if they holde not by escuage.

¶ Petite sergeantie. Cap. ix.

Tenure by petite serantie is where a man holdeth his lande of our soveraygne lo;dc the kyng, to yelde unto hym yerele a bowe, o; a sworde, o; a dagger, o; a knife, o; a speare, o; a paire of gloves of mayle, o; a payre of spures gyfte, o; an arrowe, o; dyvers arrowes, o; to yelde suche other smalle thynges, touchynge the warre. And such seruyce is but Socage in effecte, fo; that suche tenantie by his tenure ought not to go no; doo any thyng in his owne propre personne, touchynge the warre. But **Petite ser-
gantie is
socage in
effecte,** yelde and paye yerele certayne thynges unto the kyng, as a man ought to paye a rent.

¶ And note that no man may hold lande by graunde sergeantie, no; by petyte ser-
geantie, but of the kyng,

But

Tenure in Burgage is where an ancient borough is, of the which the kynge is Lord, and they that haue tenementes within the borough, holde of the kynge they? tenementes, that every tenaunt for his tenement ought to pay to the king a certayne rent by yere. &c. And such tenure is but tenure in socage, and þ same maner is where an other lord spiritual or tempozall is lord of such a borough, & the tenants of the tenementes in such a borough holde of they? lord to pay eche of they? yere an annual rent and it is called tenure in Burgage, for that the tenementes within the borough be holden of the Lord of the borough by certayne rent. &c.

Burgeses
of the par-
lyamente.

And it is to wyte, that the ancient townes called boroughes be þ most ancient & eldest townes that be within Eng- lande. For the townes that now be cities or counties, in olde tyme were boroughes and called boroughes, for of such olde townes called boroughes, come these bur- geses to the parlyamente when the kynge hath summoned his parlyament.

Customes
of townes.

Also for the most part, such boroughes haue diuers customes, and blages, which be not had in other townes, for some bor- ough had such custom, þ yf a man haue

¶ And many sonnes and dyeth the yongest
 Sonne shall inherite all the tenementes,
 which were his fathers, within the same
 borough, as he; & unto his father, by
 force of the custome, the which is called
 borough Englyshe.

¶ Also in some boroughes by þe custome
 the wyfe shal haue for her dower al the te-
 nementes, which were her husbandes.

¶ Also in some borough by þe custome, a
 man may deuise by his testament, his lan-
 des & tenementes which he hath in fee sim-
 ple within the same borough at the tyme
 of his death, and by force of suche deuise
 he to whom such deuise is made, after the
 death of the deuysour, may entre into the
 tenementes so to him deuised, to haue and
 to holde to him after the fourme & effecte
 of the deuise, without any livery of sey-
 son therof to be made to him

Wryte by
 custom.

¶ Also though a man may not graunt no-
 ght his tenementes to his wyfe during
 the couerture, for that þe his wyfe and he
 be but one person in the law, yet by such
 custome he may deuise by his testament
 his tenementes to his wyfe, to haue and
 to hold to her in fee simple or in fee tayle
 or for terme of lyfe, or for terme of yeres
 for that such deuise taketh none effecte
 but after the death of the deuysour.

¶ And if a man at dyuers tymes make
 dyuers

Lyttelton liber. 2.

Cap. 10.

byuers testaments and byuers deuyles.
 &c. yet the laste deuyle and wyl, made by
 him, shal stande and abyde, and the other
 be boyde.

¶ Also by suche custome a man may de-
 uyle by his testament, that his executo:rs
 may alien and sel the tenementes that he
 hath in fee simple fo: certayne summe of
 money, to distribute fo: the soule, in this
 case though the deuylour die seased of the
 tenementes, and the tenementes descend
 vnto his heyre, yet the executors after
 the death of they: testatour may sell the
 tenementes so deuyled, and put oute the
 heyre, and therof make a feoffement, ali-
 enacion, and estate by dede, o: withoute
 dede, to them to whom the sale is made.

Howe a mā
 maye make
 a lawfull es-
 tate where
 he hath no
 thynge in
 the lande.

¶ And so may ye se heare a case, where a
 man may make a lawfull estate of landes
 and tenementes, and yet he hath nought
 in the tenementes at the tyme of the estate
 made: and the cause is fo: that, that the
 custome and vsage is suche. Quia consue-
 tudo ex certa causa rationabili vsitata,
 priuat communem legem. Fo: a custome
 vled vpon a certain reasonable cause har-
 reth the comon law. And note wel no cus-
 tome is to be allowed, but such custome
 as hath ben vled by title of prescriptyon,
 þ is to say, fro tyme wherof is no mynde.

¶ But diuers opithyōs haue ben of tyme
 out

out of minde, and of title of prescription, which is alone in the lawe, to some men haue said, that the tyme of mynde shalbe said, from tyme of limitation in a writte of ryght, that is to saye, from the tyme of kunge Rycharde the fyrste after the conqueste, as is gyven by the statute of west mynster the fyrste, for that a writ of right is the most hie writ in his nature that may be. And in such a writ a man may recover his ryghte of the possession of his ancestors of the most auncient tyme that any man maye, by any writ by the lawe. &c. In so much that it is gyven by the sayde statute, that in such a writ none shalbe hard to aske of the leys of his ancestors of more longer tyme, then of the tyme of kunge Rychard aforesayd, therfore this is proued that continuance of possession or other customes and blages bled after the same tyme, is title of prescription, and this is certayne. And other haue said that well and true it is, that seisin and continuance after the sayde lymytacyon. &c. is a title of prescription, as is aforesaid, and for the cause aforesaid. But they haue said that there is also another title of prescription, that was in the common lawe, before any statute of lymytacyon of writtes. &c. And that was where a custome or blage, or other thing

Cap. ii.

Parime.

The opyn

ions of the

title of p

scription

tyme of

mynde

Westm.

Cap. 2.

Capl. 11.

hath ben bled, fro tyme wherof mynd of man runneth not to the contrary.

title of
descriptio.

¶ And they haue sayde þ this is proued by the pleadyng, where a man wyl pleade a tyle of Descriptio of custome. In this case he shall saye, that such custome hath ben bled fro tyme, wherof the memory of men runneth not to the contrarye, that is almuche to say, when such a matter is pleded, that no mā then a yue hath hard one pte to the contrary, nor hath no knowledge to the contrary. And in so muche that suche tyle of Descriptio was in the common lawe, and not put out by none statute. Ergo it abyderh as it was at the common lawe, and the sooner in so much that the sayde lymytacion of a writ of rpyght. &c. is of no longer tyme passed. Ideo quere de hoc, and manye othre customes and blages haue such ancient boroughes.

Inquyr.

¶ Also every boroughets a towne, but not to the contrary, moze shalbe sayde of customes in the tenure of byllnage.

¶ Byllnage. Cap. xi.

Tenure in byllnage is most properly when a byllayne holdeth of his lord, to whome he is byllayne, certain landes and tenementes after the custome of the maner, o' els at the wyl of his lord, & to do to his lord byllayne.

¶ Byllayne. Cap. xi.

Villenage.**Fol. xlii.****Cap. ii.**

How some
hold in vil-
lenage and
be no vyl-
laines.

nice, as to beare, brynge, and cary out the
ding & fylth of the lord, out of the cytie
or manour into þe land of his lord, there
to lay it, cast it, & spede it abroad vpon the
land, and to do suche other maner of ser-
vice. And some free tenants holde theyr
tenementes after the custome of certayne
manours by suche scruyces, and theyr tes-
nure is called tenure in villenage, & yet
they be no villaines. For no lande holder
in villenage or villaine landes, or any cu-
stome rising of the lande, shal neuer make
free man villain. But a villain may make
free land to be villaine lande to his lord.

¶ As if a villaine purchace lande in fee
simple or in fee tayle, the lord of the vil-
lain may enter into the land, and put out
his villayne and his heyres for ever, and
after the lord if he wyl, may let the same
land to the villayne to hold in villenage.

¶ Also yf a feoffemente be made to a cer-
tayne persō or persons in fee to the vse of
a villain, or if a villaine or any other pers-
ons be enfeofed to the vse of a villayne
what estate so ever the villayne hath in
the vse, in fee tayle, for terme of lyfe, or
yetes, the lord of the villayne may enter
in all those landes and tenementes, lyad
wylle as yf the villayne had bene alone
seised of the demesne. And that is by the
statute of, Anno, 19. D. 7. Cap. 15.

F. li.**But**

Capt. 11.

C But if a free man wyl take any landes
oꝛ tenementes to holde of hys Loꝛde by
suche byllayne seruyce, that is to say, to
paye a fyne to his loꝛde foꝛ his mariage,
oꝛ foꝛ the marpage of his sonne, oꝛ his
doughter, then shal he paye suche a fyne
foꝛ the marpage. &c. foꝛ that it is the folp
of such a free man to take in such fourme
landes oꝛ tenementes, to holde of his
loꝛde by such bondage, yet that makethe
not the free man a byllayne.

What is
of a villain
C. 1. §. 4.

Also euery byllayne eyther he is a bil-
layne by pꝛescription, that is to say, he
and his auncesters haue bene byllaynes
tyme out of mynde, oꝛ he is byllayne by
his owne confession in court of recoꝛde.

C But if a free man haue dyuers issues,
and after cōfesseth him selfe to be byllain
to an other in court of recoꝛde, yet his is-
sues which he hath before the confession,
be fre, but the issue, which he shal haue af-
ter the confession. &c. shalbe byllaynes.

What ma-
nue of lande
purchased
by a villain
is good.

Also if a villaine purchase landes, and
alyeneth the same landes to an other be-
foꝛe his loꝛd entree, then the loꝛde may not
entree. Foꝛ it shalbe iudged his owne folp
that he entred not when the lande was
in his byllaynes handes.

And so it is of his other goods, foꝛ if a
byllayne by and sel, oꝛ gyue goodes to an
other, before that the loꝛd seale the good
then

then the lord may not lease them, but yf
the lord before any such sale or gift ch
meth within the house of the byllayne,
where such goodes be, and there openlye
amonge the neyghbours clayme the same
goodes to be his, and so seiserth parcell of
the same, in name of seisin of al y goodes
et. This is sayd a good seisin in the lawe
And the occupaciō that the byllaine hath
after suche clayme in the goodes, shalbe
taken in the lawe in the right of the lord.
But if the king haue a byllaine that pur
chaserth landes, and alpynerth before that
the kyng entre, yet the kyng may entre
into the lande, into whose handes so euer
the lande cometh. And yf the byllayne
bye goodes, and sellerth them before that
the kyng seiserth the goodes, yet the king
may seyle them, in whose handes so e
uer they be. *Nulla nullum tempus de
currit regi.* No tyme rennerth against
the kyng.

A good se
sin.

Maxime.

¶ Also if a man let lande to an other for
terme of lyfe, sauynge the reuercion to
him, and a byllaine purchaserth of the les
sour the reuercion, in this case it seemeth
the lord of the byllaine may incontynente
come to the land, & clayme the same reuer
cion, as lord of the same byllayne, and by
this clayme the reuercion is incharged in

When the
lord shal
clayme re
uercion of
auouson
purchaseth
by his by
llayne.

f. iii.

him

Cur.

him for in any other fourme he maye not come to the reuercion, for he may not en- tre upon the tenant for terme of lyfe, and if he ought to abyde tyl after the deathe of the tenaunt for terme of lyfe, the happe- ly he myght come to late. For peraduenture the byllayne wyl graunte or aliene the reuercion to an other in the lyfe of the tenant for terme of lyfe.

CIn the same maner it is, where a byllain purchaseth the auouson of a churche ful of an incumbent, the lord of the byllayne may come to the sayd churche, and claime the sayd auouson. And by this claime the auouson is in hym, for yf he ought to abyde tyl after the deathe of the incumbent, and then present his claime to the sayd church. Then in the meane tyme the byllain might alien the auouson. &c.

CSo put out the lord fro his p. elcuraciō. Also there is a byllayne regardant and a byllaine in grosse. Byllaine regardante is as if a man be seyled of a manoure, to which a byllaine is regardant, and he that is seyled of the sayde manoure, or they whose estate he hath in the same manour haue ben seyled of the sayd byllayne, and of his ancestors, as byllaynes regardant to the manour, fro tyme out of mynde.

CAnd byllaine in grosse is where a man is seyled of a manour, to the which a byllayne

of nullion.
byllayne re-
gardant.

byllayne in
grosse.

Willenage.

fol. rliiii.

Cap. ii.

same is regardant, and he graunterh the
same villaine by his dede unto an other,
the he is villain in grosse, & not regardant.
¶ Also if a mā and his ancestors, whose
hepze he is, hath ben seised of a villaine
of his ancestors, as villains in gros, come
out of munde, suche be villaines in grosse.
¶ And note well, that of suche thynges,
which may not be graunted noz aliened,
without dede oꝝ fine, a mā that wyl haue
such thynges by pꝛescription, may not o-
therwise pꝛescribe but in him and his an-
cesters, whose hepze he is, & not by these
wordes in him, in those, whose estate he
hath, so: that that he may not haue, the
estate without dede oꝝ other wꝛiting, the
whiche behouerhe to be shewed to the
court, if he wyl haue any aduantage of
this, and bicause that the graunt and the
alienation of a villaine lieth not without
dede oꝝ other wꝛiting, a man may not pꝛe-
scribe in a villaine in grosse without the
wꝛyng of wꝛiting, but in hym selfe that
claimeh the villain, and in his ancestors
whose hepze he is. But of those thynges
which he regardant oꝝ appendaunt to a ma-
nour, oꝝ to other landes oꝝ tenementes, a
man may pꝛescribe, that he & they, whose
estate he hath, were seised of the manour
oꝝ of such thynges, as regardantes oꝝ ap-
pendauntes to the manour, oꝝ to suche

f. liii.

landes

Lyttelton Liber. 2.

Capl. vi.

11. 40. 2

Regardant

Appendat.

In grosse.

Nyete and
wage.

Justi. lib. i.
et de inge-
nuit. Justi
et autem
liberam fu-
it matrem

Opusculas.

landes and tenementes. .sc. from time out of mynde. And the cause is for this, that

suche a manour, landes and tenementes may passe by alienaciō without dede. .sc. And it is to wote, that nothyng is named regardant to a manour but a villaine. But certayne other thynges as auousō and comyn me of pasture. .sc. be named appendantes to the manour, or to other landes and tenementes.

Also yf a man wyl in court of recoorde knowlege hym selfe to be a byllaine, that neuer was byllaine before, suche one is byllayne in grosse.

Also a man that is byllayne is called byllayne, and a woman that is byllayne, is called nyete, as a man that is outlawen is called an outlaw, and a woman that is outlawen is called a warue.

Also if a byllaine take a free womā to wote, the issues betwene them shal be byllaynes. But yf a nyete take a free man to husband, they; issues shal be free. And that is contrarie to the lawe ciuile, for there it is sayd, that pectus sequitur ventrem.

Also no bastard may be byllayne, but yf that he wyl knowlege hym selfe to be a byllayne in court of recoorde, for he is in the lawe. Quasi nullius filius, as the son of no man, for that he may be inheritor to no man.

Alte

¶ Villenage.

fol. 11b.

Capl. 11

¶ Also every villaine is able and free to sue al manner of actions against every person, excepte against his lord, to whom he is a villaine, and yet certayne actions he may haue against his lord. For he maye haue againste his lord an action of appeale, for the deathe of his father, or of his other auncesters whose heyre he is.

¶ Also a nyce which is rauished by her lord may haue appeale of rape against him.

¶ Also if a villaine be made executor to an other, and the lord of the villaine was indebted to the testatour in a certayne summe of money, the which is not paid, in this case the villaine as executor to the testatour, shal haue an action of dette against his lord, bicause he shal not reco-uer the dette to his propre ble, but to the ble of his testatour.

¶ Also the lord may not take out of the possession of suche a villaine, that is executor, the goodes of the dead, and yf he do the villaine as executor shal haue an action of trespassse agaynst his Lord for the same goodes so taken, and reco-uer damages to the ble of the testatour.

¶ But in all these cases it behouethe the lord, whiche is defendant in suche actions, to make protestacyon, that the plain-tyffe, is his villaine, or elles the villaine shal be fraunchysed thowhe the matter

When the
villain Ma
haue action
of dette or
trespasse a
gaynst his
lord.

Protestac
on,

Lyttelton liber. 2.

Cap. 11.

**Erralle of
byllage.**

be founde foꝛ the loꝛde, and agaynst the
byllage, as it is sayde.

¶ Also yf a byllage sewe an accyon of
trespas oꝛ other accyon agayn his loꝛde
in one shyre, and the loꝛd saith þ he shall
not be answered foꝛ that he is villain re-
gardant to his manour in an other shyre
and the plainrife sayth, that he is franke
and of free state, & no byllage this shall
be tryed by the shyre, wher the plainrife
hath conceived his accyon, and not in the
shire, where the manour is, and this is in
fauour of libertie, as it is adyudged. 20.
46. Ed. the third. And foꝛ this cause was
made a statute in the. ix. yere of Rycharde
the second cap. 2. the tenure of which en-
sewerth in suche foꝛme.

**The wordes
of the
statute.**

¶ Also foꝛ that where manye byllages
and niefes, as wel of greute loꝛdes as of
other folke, as wel spiritual as tempoꝛal
flee, and go into cytyes, towne, and pla-
ces fraunchysed, as the Citie of London
and other lyke places, and sayne dyuers
sutes agaynst theiꝛ loꝛdes, bycause they
wolde make them selfe to be enfranchy-
sed, by the answer of theiꝛ loꝛd, it is ac-
corded & ascēted, that the loꝛdes noꝛ none
other shall be foꝛbarred of theiꝛ byllages
bycause of theiꝛ aunswere in the lawe.

¶ By foꝛce of which statu. if any villain
shall sue any maner of accyon to his owne
bly

Wise in any wyse where it is harde to trye
 it against his lord, his lord maye chose
 to plede that the playniffe is his villayne
 or to make protestaciō þ he is his villain,
 and to pleade an other matter in barre
 and if they be at issue, & the issue be found
 for the lord, then the villayne is villayne
 as he was before, by force of þ same esta-
 blyshment. But yf the issue be found for the vil-
 layne, then is the villayne frane and
 free, for that the lord toke not at the be-
 gynnynge for his plee, that the villayne
 was his villayne, but toke it by pro-
 testacion.

¶ Also the lord may not mayme his vil-
 layne, for if he mayme his villain he shal
 of þ be endyrted at the kinges sute. And yf
 he be of þ arraigned, he shal for that make
 greuous fine & ransome to the kyng. But
 it semeth, that the villayne shal not haue
 by the law any appele of mayme agaynst
 his lord, for in appeale of mayme a man
 shal not recouer but his damages. And yf
 the villayne in þ case recouer damages a-
 gainst his lord, & hath therof execution, þ
 lord may take that that the villayne hath
 in execution for the villayne, and so the
 recouerye standeth boide.

¶ Also if þ villayne be demaundant in an
 actiō royal, or platniffe in an actiō perso-
 nal agaynst his lord, if the lord wyll plede
 in

Wherefore
 a villayne
 may not sue
 an appeale
 of mayme
 agaynst his
 lord.

By tteleton liber. 2

Cap. 11.

in disabilitye of his person, he maye not make playne defence, but shall defende but the wrong and the force, and demaund iudgemente, if he shalbe answered, and shewe his matter by and by, howe he is byllayne, and demaunde iudgemente, if he shalbe answered.

Ad abilitie
Willayne.

Also. vii. maner of me there be, against whom if they sue action s. sc. Iudgement may be asked, if they shalbe answered.

In outlaw

One is where the byllayne such action, s. c. against his lord, as in case aforesayd.

The second is where a man is outlawed upon an action of dette by trespassse, or by upon any other action or inditement, the re-
gant or defendant may shewe al the mat-
ter of record, and the outlaw, y. c. and de-
maunde iudgement if he shalbe answered
by cause p he is out of the lawe to sue any
action, during the time p he is outlawed.

In alpine
home,

The thyrd is where an alpine p is borne out of the aleg pautte of oure soueraygne lord the king, if such alien sue any action royal or personal, the tenant or defendant may say, that he was borne in such a coun-
trei, which is out of the kinges allegiance
and aske iudgement, if he shalbe answered.

A man con-
demned in
pmanente.

The fourth is where a man by iudgement gyven against him upon a writte of p-
munire facias. s. c. is out of p kinges pro-
tection, if he sue any action, & the tenant

by defendante shewe al the recozde against him, he may aske iudgement if he walbe answered, for the law. & the kinges wrytten for the rynges, by which a man is protecte & holpen, and so during the tyme þat a man in such case is out of þe kinges protection, he is out of þe helpe & protecte by the kinges lawe, or by the kinges wryt. The fift is, wher a man which is entred and professed into religion, suethe an action, the tenant or defendante may shewe, þat such one is entred into religiõ, in such a place into the order of saynt Benet, & is there a monk professed, or in the order of fryers mynoures, or preachers, and is there a fryer professed, and so of other orders of relygion. &c. and aske iudgement if he shalbe answered.

A religious man.

¶ And the cause is for this, that when a man entreth into religion, and is professed, he is deade in the lawe. And by sonne, or next coulyn incontinente shall inheryte hym, as well as though he were deade in dede, and when he entreth into religion, he maye make his testament, and his executours, and they may haue an accon of dette due to hym before his entre into religion, or any other accon that executours may haue, as if he were dead in dede. And if he make none executours whẽ he entreth into relygion then

A man excommunicate.

Lytelton liber. 2.

Cap. 11.

then the ordynarye may commytte the administration of his goodes to other men as yf he were deade in dede. The. vi. is where a man is accursed by the lawe of holpe church, and he sueth an action royaall oꝝ personall the tenaunt oꝝ defendante may pleade, that he that such is accursed: and of this it behoueth hym to shewe the Byshoppes letters vnder hys seale, wytnessyng the accursyng and aske iudgement, if he shalbe answered &c. But in this case if the demaundaunt oꝝ playntiffe can not denye it, the wyrt shal not abate but the iudgement shalbe that the tenaunt oꝝ defendante shal go quyte without dape for this that whē the demaundant oꝝ playntiffe hath purchasēd his letters of absolution, & sheweth the to the courte, he may haue a rescommens oꝝ a reattachementē bypon his origynall, after the nature of his wyrt. &c. but in the other syue cases the wyrtte shal abate. &c. yf the matter shewed, may not be gaynesayde.

.11. 11. 2.

¶ Also yf a byllayne be made a seculer priest, yet his lord may seale hi as his billaine, & seale his goods. &c. But it semeth that if the byllayne entre into religion, & is professed. &c. that the Lord maye not take hym noꝝ lese him, for that he is dead in the lawe, no moze then yf a free man take a wyfe to his wife, the lord may not

take.

Take ne lease the wyfe of þ husband. But
his remedy is to haue an action agaynst
the husband, for that he took his wyfe to
wyfe without his wyl and lycence. And so
may the lord haue an action agaynst the
soueraygne of the house, that taketh and
admitteth his byllayne to be professed in
the same house, without licence and wyl
of his lord. &c. and shall recouer his da-
mages to the value of the byllayne. For
he that is professed monke. &c. shal be a
monke, and as a monke shal be taken for
terme of his lyfe natural, except he be de-
capued by the lawe of holy Church, and
he is holden by his religion to kepe his
cloyster, and if the lord may take him out
of his house the he shoulde not lyue as a
dead person, nor after his religion which
shoulde be inconuenient. &c.

LYKEWYSE yf there be war-
deyne in chynalre of bodye, and of land
of a chylde within age, yf the chylde
when he cometh to the age of four-
tene yeres, entre into religion, and is
professed, the Wardeyne hath none o-
ther remedye, as to the warde of the bo-
dye, but a wytte of rauyschement of
warde agaynst the soueraygne of the
house. And yf any beyng of ful age,
that is consyn and heye vnto the chylde
entre into the lande, the wardeyne hath

The same
of religion.

no remedy as to the warde of the land, by cause that the entree of the heire of the chylde is lawful in suche case.

¶ Also in manye dyuers cases the lord maye make manumission and in franchises synge to his byllayne.

Manumissio
suo expresse
facta.

¶ Manumission is properly when the lord maketh his dede to his villaine to enfranchise him by this worde Manumittere, which is as much to saye, as extra manum, et extra potestatem alterius ponere, as to put hym out of the handes and the power of an other. And for this that by suche a dede the byllayne is put out of the hande and power of his lord, it is called Manumission. And so every manner of enfranchysynge made to a byllayne, may be sayd Manumission.

Manumissio
implicita.

¶ Also if the lord make to his byllayne an obligation of a certayne summe of money, or graunt unto him by his dede an annuall, or let him by his dede landes or tenementes for terme of yeres, the byllayne is enfranchysed.

¶ Also if the lord make a scoffemente to his villaine of any landes or tenementes by dede or withoute dede, in fee simple, fee taylor, or for terme of lyfe, or for terme of yeres, and deliuereth unto hym seysyn, this is an enfranchysynge, but yf the lord make to hym a lease of landes or tenementes

mentis

tes to holde at the wyl of the lord by dede or without dede, this is no enfranchising, for that he hath no manner of certain tie, nor suertie of his estate, but that the lord may put him out when he wyl.

¶ Also if a lord sue agaynst his villayne a *recipe quod reddat*, if he recouer, or be not sure after apparance, this is a manumission, for this that he may lawfully enter into the land without such suite.

¶ In the same manner it is, if he sue against his villaine an action of dette, or of accompt, or of couenant, or of trespass or such other, this is an enfranchising. For this that he may imprison his villaine, & take his goods without such suite.

¶ But if the lord sue his villayne by appeale of felonie, where he was endyted thereof before, this is no enfranchising to the villayn, though the matter of the appeale is founde agaynst the lord, by cause that the lord may not haue the villayne hanged without such suite. But if the villaine were not endyted of the same felonye before the appeale sued agaynst him, and after is acquitted of the sayd felonye, then he shall recouer damages agaynst his lord for the false appeale. And in this case the villayne is enfranchised, bycause of the iudgement of damage that was given to him agaynst his lord.

None the franchising.

Lyttylton liber. 2.

Capl. 11.

Herita pre-
scriptio.

And moze cases and matters there be, by
the which a byllayne may be enfranche-
sed againe his lord. Sed de illis quere.

¶ Also yf a lord of a manoure wyl pre-
scribe, that it hath ben accustomed with
in his manoure tyme out of mynde, that e-
uery tenaunt with in the same manoure,
that marieth his daughter to anye man
without licence of the lord of the manoure
shall make fyne to the lord for the tyme
beyng, this prescription is void. For none
ought to make suche fines but onely bil-
lains for euery fre mā may freli mary his
doughter to whō it pleseth hi & his doughter.
And bycause that this prescription is as
gainst reson, such prescription is boyde.

The custome
of Gaueill
bynde.

¶ But in the shyre of kent, of landes and
tenementes holden in Gaueillkind, where
by the custome it hath ben bled tyme out
of mynde that the chylde:en males oughte
euery to inherite, which custome is al-
lowable for this that it is with some rea-
son, bicause that euery son is as great a
gentylman as the elder son, and by reson
that moze great honour and valour shall
growe to suche chylde, then yf he had no
thyng by his auncesters, where perad-
uenture he myght not so growe. &c.

The custome
of borough
englyshe.

¶ Also where by custome called borough
englyshe in some borough the yonger son
shal inherite al the tenementes. &c. This
custome

customs also standeth with reason, bicause
that the rōger son yf he lacke father and
mother, bicause of his yonge age may lest
of al his hertzen helpe him selic. &c. But
yf a mā wyl prescribe, that yf any cattel
were byon the demesne of his manoure,
there doyng damage, that the lord of the
manour for the tyme beynghath bled to
distrain them, and the distresse to retaine
tyl tyme were made to hym for the dama-
ges at his wyl, this prescription is boyd
bicause it is against reason, that yf wōg
be done to a man, that he therof shulde be
his owne iudge, for by suche waye yf he
had damage, but to the value of an halfe-
peny, he myght assesse and haue therfore
an. s. li. which shuld be against al reason
and so suche prescriptiō, or anye other
prescriptiō bled, if it be agaynst all rea-
son, ought not no; wyl not be allowed be-
fore iudges. Quia malus blus abolen-
dus est.

Iniqua p
scriptio

Rentes. Cap. iiii.

The maner of rentes there be, that
is to say, rent seruice, rent charge
& rent secke. Rent seruice is where
a man holdeth his land of his lord by feal-
tie, and certayne rent, or by homage, feal-
tie, & certayne rent, or by other seruices &
certayne rent, & if rent seruice at any day
is. li. that

Distinction
Rente Ser-
uice.

that it ought to be payed, he behynde the
lozd may distreynne for þ of comon ryght
¶ And yf a man nowt wyll gyue landes
oz tenementes to an other in taylor, yeldyng
to him certayne rent by yere, he of
comon ryght may dystreynne for the rent
behynde, thowhe that suche gyfte was
made without a dede, bycause that suche
rente is rent seruyce.

¶ In the same maner it is, yf a lease be
made to a man for terme of his lyfe, oz an
others lyfe, yeldyng to the lessour cer-
tayne rent, oz for terme of yeres yeldyng
certayne rent, &c. but in such case where
a man bypon suche a gyfte oz lease wyll
reserue to hym rente seruyce, it behoueth
that the reuercyon of the landes and te-
nementes be in the donoure oz in the les-
sour, for if a man wyll make a feoffement
in fee, oz wyll gyue landes in taylor, the
remainder ouer in fee simple wout a dede
reseruyng to hym certayne rent, such reuer-
cion is in the donour, and such a tenant
holdeth his lande immediatly of the lozd
of whome his donour helde.

¶ And thys is by force of þ statute of west-
minster. 3. cap. 1. Quia emptores terrarū,
for befoze þ same sta. if a mā made a feof-
fement in fee simple by dede oz wout dede
yeldyng to him and to his heyres certayne
rent, this was rent seruyce, & for this he
myght

The com-
mon lawe
is for the
statute.

myght distrayne of common ryght. And if he made no reuercon of any rente, noꝝ of any seruice, yet the feoffee helde of the feoffour by such scrupces, as the feoffour helde ouer of his lord nexte aboue.

Cap. 12.

¶ But if a man by dede indented at a day make such a gyft in the taylor, the remainder ouer in fee, oꝝ a lease foꝝ terme of lyfe the remainder ouer in fee, oꝝ a feoffment iꝛ fee, & by the same indenture reserue to him & to his heyres a certayne rent, & that if þe rent be behinde, þe it shalbe lefull to him and to his heyres to distrayne. &c. Such rent is rent charge, bycause such landes and tenementes be charged of such by distresse by foꝝce of the wytyng onelye, and not of common ryght.

Rent charge

¶ And if such a man in such a dede indented, reserue to him & to his heyres certayne rent, wout any such clause set oꝝ put in the dede, þe he may distrayne. &c. then such rent is rent secke, bicause þe he can not distrayne to haue the rent, if it be denied by þe same distresse, & if he was neuer seyled in this case of the rent, he is without remedye, as shalbe sayde hereafter in this chapter.

Rent seck

¶ Also if a man leased of certayne lande graunt by his dede, word, oꝝ by endetur a yerely rent issuing out of þe same land to another iꝛ fee simple, oꝝ in fee taylor, oꝝ foꝝ tyme

Lyttelton liber.

Cap. 12.

of lyfe. &c. with clause of distresse. &c. then this is rent charge, and yf the graunt be without clause of distresse, then it is rent secke. And note well, that rent secke, *Nō est quod redditus siccus*, for that that no distresse is incident to it.

Annuitie.

¶ Also if a man by his dede graunt rent charge to an other, and the rent is behind the grauntee may chose if he wylle sewe a wyttie of annuitie of it against the grauntour, or distrayne for the rent behind, and the distresse to withhold, tyll he be of that payed, But he may not do and haue both together, for yf he recouer by wyttie of annuitie, then the land is discharged. And yf he sewe not a wyttie of annuitie, but distrayne for the arrearages, and the tenant sewerh a *Replegiare*. &c. and the grauntee auoweth the takynge of the distresse in the lande. &c. in court of recoꝛde, then is the lande charged, and the person of the grauntour discharged of an action of annuitie.

Eschoppell.

¶ Also yf a man wylle that an other shall haue rent charge issuyng out of his landes, but he wylle not that his person shall be charged in any maner by a wyttie of annuitie, then he may haue such a clause in the ende of his dede. *Idouiso semper quod presentis scriptum nec aliquid in eo specificatum, non aliquo aliter se extendat*

Idouiso.

ad.

ad onerandum personam meam, per bre-
ue vel actionem de annuali redditu. Sed
talemmodo ad onerandum terras et tene-
mentum predicta, de annuali redditu pre-
dicto, then is the lande charged, and the
person of the grauntour discharged.

¶ Also if a man make such a dede in such
maner, that if A of B. be not yerely payd
at the feast of Christmas for terme of his
lyfe .xx. s. of lawfull money, that then
it shalbe lesul to the sayde A. of B. to dis-
trayne for it, in the maner of ff. sc. this
is a good rente charge, bycause that the
manour is charged with the rent by way
of distress, & yet the person him selfe that
made suche a dede, is dyscharged in this
case of an actiō of annuite, bycause that
he graunted not by his dede anye annuitie
to the sayde A. of B. but graunted onely
that he may distraine for his annuitie.

¶ Also yf a man haue a rente charge to
him and to his heyres, issuing out of cer-
tayne lande, if he purchase any percelle
of the lande, to him and to his heyres, all
the rent is extincte, and the annuitie also
bycause that rent charge may not in such
maner be appoynted, but if a man that
hath rent seruyce purchase parcell of the
lande, whereof the rente is goynge oute,
this shal not extincte all, but for the por-
tion, for the rent seruyce in suche case may

Extinctio
ment.

Lytelton lber. 2

Capl. 13.

be appoyoned, and shalbe appoyoned after the value of the lande. But if a tenant holde his lande by seruyce, to yelde to his lord yerely at such a feast an hourse or an hawke, or such thyng semblable, yf in such case the lord purchase parcell of the land, the seruyce is gone, by cause that suche seruyce may not be leucred nor appoyoned. ¶ But if a man hold his land of an other by Homage, Fealtye, and Escuage, and by certayne rente, if the lord purchase parcell of the lande, &c. in suche case the rente shalbe appoyoned, as is aforesayde. But yet in this case the Homage and fealtye abideth holt to the lord, for the lord shall haue the Homage and fealtye of his tenant for the remnant of þe landes and tenementes holden of him, as he had before. &c. for this that suche seruyces be no annuell seruyces, and may not be appoyoned. But the escuage may and shalbe appoyoned after the quantyte and rate of the lande.

**Rent charge
appoyoned.**

¶ Also yf a man haue a rent charge, and his father purchaseth parcell of the tenementes charged in fee and dieth, and that parcell descendeth to his sonne that hath the rente charge, now this rente charge shalbe appoyoned after the value of the landes as is aforesayd of rent seruyce, by cause that suche a poyson of the lande purchased

purchased by the father, cometh not to the son by his owne dede, but by dyscente and course of the lawe.

¶ Also if there be lord and tenaunte and the tenaunt holdeth of his Lord by fealtye and certayne rent, and the lord graunteth the rent by his dede to another. &c. keepyng to hym the fealtye, and the tenaunte attourneth to the graunte of the rent, nowe suche rent is rent secke to the grauntee, for this that the tenementes be not holden of that graunte of the rent, but be holden of the Lord that receyued to hym the fealtye.

¶ And in the same maner it is where a man holdeth his land by homage, fealtye and certayne rent, if the lord graunt the rent, sayyng to hym the homage suche rent after such graunt is rent secke.

¶ But where landes or tenementes ben holden by homage, fealtye, and certayne rent, if the Lord wyll graunte the homage of his lande by his dede to another sayyng to hym the remenaunte of the seruyces, and the tenaunt attourneth to hym after the fourme of the graunt, now in this case the tenaunte holdeth his lande of the grauntee, and the Lord that graunteth the homage, shal not haue but the rent, as rent secke, and shal neuer distraine for the rent, for this that neither

Lytteiton liber. 2.

Cap. 12.

homage noꝝ fealtye, noꝝ escuage maye be
said secke, foꝝ no such service may be said
secke, foꝝ he that hath oꝝ ought to haue of
his tenant homage oꝝ fealtye, oꝝ escuage
may of common ryght distrayne foꝝ it, yf
it be behynde. Foꝝ homage, fealtye and es-
cuage bene seruyces, by which lādes and
tenementes be holden, &c. and be such that
in no maner may be takē but as seruyces
¶ But otherwyle it is sayd of rent, that
was ones rent service, foꝝ this that whē
it is leuered, by the graunte of the loꝝde,
fro that other services, it may not be said
reuerſe service, foꝝ this that he hath not to it
fealtye, which is incident to euery maner
of rente seruyce: and foꝝ this it is sayde
rent secke, if the loꝝd can not graunt such
rent with dystresse, as is sayde.

¶ Also if a man let lande to an other foꝝ
terme of lyfe, reseruyng to him certayne
rent, if he graunt the rent to an other by
his dede, sayng to hym the reuerſion of
the lande so letten, &c. suche rente is but
rent secke, foꝝ this that the graunte hath
nothyng in the reuerſion of the lande.
But if he graunt the reuerſion of þe land to
an other foꝝ terme of lyfe, and the tenant
attorneye, &c. then hath the graunt the
rent as rent seruyce, bycause he hath the
reuerſion foꝝ terme of lyfe.

¶ And so it is to be vnderstand, þe if a ma
gyua

Rentes?

fo. lili.

Cap. vi.

gyue landes oꝝ tenementes in the tayle, reseruing to him and his heyrꝑes certayne rent, oꝝ lette lande foꝝ terme of lyfe, reseruyng certayne rent, yf he graunte the reuercion to an other, and the tenaunt at toꝝmeth, all the rent and seruyce passethe by the woꝛde of the graunt of reuercyon, foꝝ this that al the rent & seruyce in suche case be incidentes to the reuercyon, and passe by the graunt of the reuercion. But though he graūt the rent to an other, the reuercion passeth not by such graunte, &c. And so note wel the dyuersitie. And it is holden. **D. 12. E. 4.** But it is adiudged **An. 26. li. assisarum**, where as the seruyces of the tenant in tayle were graunted, that this was a good graunt, yet not wth standyng the reuercion remayneth.

Nota.

¶ Also yf there be loꝛde, mesne, and tenant, and the tenant holdeth of the mesne by the rent of fyue shillinges & the mesne holdeth ouer by .xii. d. yf the loꝛde aboue purchase the tenancy in fee, then the seruyce of the mesnaltie is extincte, foꝝ this that when the loꝛd aboue hath the tenancye he holdeth of the loꝛde nexte aboue him. And if he ought to hold it of hi that was mesne, then he shulde holde one selfe tenancy immediatlye of dyuers loꝛdes, which shulde be inconuenient, & the lawe wyl soner suffer a mischiete than an inconuenience

Maxims.

Lyttelton liber. 2.

Cap. 11.

nemence. And so; this the seignorye of the mesnaltie is extinct, but in so muche that the tenant held of the mesne by .b. s. and the mesne helde but by .xii. d. so that he had moze aduantage by .iiii. s. then he payde to his lord, he shal haue the sayd .iiii. s. as a rent secke percelpe of the lord that purchasde the tenauncye.

Remedy.

¶ Also yf a man that hath rent Secke, is once seysed of any percell of the rent, and after if the tenaunt wyl not pay the rent that is behynde, this is his remedy, It behoueth him to go by hym selfe, or by an other to the landes and tenementes, wherof the rent is issuyng, and there to demaund the arerages of the rente, and if the tenant denie to pay it, this denieng is a disseisin of the rent. Also yf the tenant at the tyme be not redy to pay it, this is a denieng and a disseisin.

¶ Also yf the tenaunte no; none other be dwellyng vpon the landes or tenementes to pay the rent, when he asketh the arerages .&c. this is a denieng in law, and a disseisin in dede, and of such disseysins he may haue an assise of nouell disseysyn against the tenant and recouer the seysyn of the rent and the arerages and his damages and costes of his wytte, and of his plee. &c. And if after suche recouerye and execution had, the rente be an other tyme denied

denyed hym, then he shal haue a reddress
 sin, and recouer double damages.

*Assisa equis
 uocum.*

¶ And it is to be had in mynde, that this
 name assise is equiuocum. For sometime
 it is taken for a Jurpe, for in the begin-
 ning of the recoorde of assise of nouell dis-
 seisin, the recoorde shal begyn thus. *Assisa
 beñ recogn. &c.* which is to say, that Jus-
 tices beñ recogn. And the cause is for
 this that by the wyrt of assise, it is com-
 manded to the Wyrtte, *quod faciat. pñ.
 liberos et legales homines de vicineto
 &c. videre tenementū illud, et nomina eor-
 um inueniari, et quod sufficos per hos
 nos suffi, quod sint coram iusticiariis. &c.
 parati inde facere recogn.*

¶ And for this that by force of suche an
 originall wyrtte a pannelle by force of the
 same wyrtte ought to be retourned. &c. it
 is sayde in the begynnyng of the recoorde
 in assise. *Assisa beñ recogn.*

¶ Also in a wyrtte of right is is commonly
 sayde, that the ternaunt maye put him in
 god, and in the great assise. &c.

¶ Also there is a wyrtte in the Regester
 called. *De magna assisa eligenda*, so is
 this a good profe, that this name assise
 sometyme is put for the Jurpe, and some-
 tyme it is taken for al the wyrtte of assise
 and after that entent it is most propre
 and most commonly taken, as a wyrt of
 assise

Lyttelton liber. 1.

assise of nouel disseysin is taken for al the
wzptte of assise of nouel disseysin.

¶ In the same maner assyse of common
pasture is taken for all the wzpt of assyse
of common pasture, and assyse of mozte-
daunecster is taken for al the wzpt of as-
syse of moztehaunsecsters, and assise of dar-
reynepresentment, is taken for all the
wzptte of assise of darreynepresentment
but it semeth, that the cause is, why such
wzpttes at the begynning were called as-
sysses, for this þ by euery such wzpt it is
commaunded to the shpyffe, that he com-
mon, xii. sc. which is as much to say that
he ought to common a Jurp. sc.

¶ And sometyme assise is takē for an oꝝ-
dynaunce for to set certayne thinges in a
certayne rule and dysposicion, as an oꝝ-
naunce that is entred in the antyēt esta-
tutes is called assisa panis et seruicie.

¶ Also yf there be Loꝝde and tenaunte
and the loꝝde graunteth the rente of hys
tenaunte by dede to an other, sauyng to
hym the other seruicess, and the tenant
attourneth, this is a rent secke, as is a-
foresayde. But if the rente be denyed him
at the next daye of paymente, he hath no
remedy, for this that he hadde not therof
of any possessor. But yf the tenaunte
when he attourneth to the graunte, oꝝ
after wyl gyue a peny oꝝ an halfpeny to
the

Shpyffin of
rent secke.

the graunt in the name of seisin of þ rent
then if after at the nexte day of payment
the rent be denied hym, he shall haue as-
sise of nouell dysseyn.

¶ And so it is, yf a man graunte by his
bede a pcelve rente issuyng oute of his
lande, to an other. &c. If the grauntour
then after paye to the grauntee a peny or
an halfe peny in the name of seysyn of the
rente, then after the fyfte dape of payes-
mente the rente be denyed, the grauntee
may haue assise or els not.

¶ Also of rent secke a mā may haue assise
of mozt dauncester, or a wytte of apell or
cousynage and al other maner of actions
reals, as the case lyeth, as he maye haue
of any other rente.

¶ Also there be thre causes of distressin
of rent seruice, that is to say rescous re-
pleuin, and enclosure.

¶ Rescous is when the lord distraineth
in the lande holden of hym for his rente
behynde, if the distress be rescued fro hym
or the lord come vpon the lande, & wolde
distrayne, and the tennaunte or an other
man wyl not suffre hym. &c.

**Thre man-
ners of dis-
seyn.
Rescous,**

¶ Repleuyn is when the lord hath by-
strayned, and repleuin is made of the dis-
tress by wytte, or by playnt. &c.

Repleuyn,

¶ Enclosure is if þ landes and tenemen-
tes be so enclosed, þ the lord maye not the
within

Enclosure,

Lyttelton liber. 2.

Cap. 12.

within the lande and tenementes for to distreyn. And the cause why such thynge is done be disseisins made to the lord is for that that by such thynge the lord is distourbed of the meane, by whiche he ought to haue had and come to his rent, that is to say, of the distresse.

¶ And foure causes be of disseisyn of rent charge, that is to say, rescous, repleyn, enclosour, and denier, for denyenge is a disseisin of rent charge, as it is aforesayd of rent secke.

¶ And two causes be of disseisin of rent secke, that is to say enclosour and denier.

¶ And it semeth, that there is an other cause of disseisyn of all the thre rentes aforesayde, that is to say, when the lord is goyng to the lande holden of hym, for to distreyn for the rent beyng behynde, and the tenaunte hearyng this encountreth him, and forstallet hym the way with force and armes, and manaceth him in suche fourme that he dare not come to the lande for to distreyn for his rent behynde. &c. for doubte of deathe or bodelye hurt, this is a disseisin, for this that the lord is distourbed of the meane, whereby he ought to come by his rent, and so it is if by such forstallyng and manacyng. he that hath rent charge, or rent secke is forstalled, or dare not come to the lande

Parceners.

Fol. lvi.

Cap. 1.

to aske the rent beynde.

¶ Thus endeth the seconde boke.

PARCENERS. CAP. I.



Parceners be in .ii. maners that is to saye, parceners after the course of the common lawe, and parceners after the custome.

¶ Division
Parceners
be the com
mon lawe

¶ Parceners after the course of the common lawe be, where a man or a woman leased of certayne landes or tenementes, in fee simple, or fee tayle, hath no issue but daughters and dyeth, and the tenementes discede to the daughters, and the daughters enter into the landes and tenementes so to them descended, then they be called Parceners, and be but one heire to theyr ancestor. And they be called Parceners, for this that by the wytt that is called *Uexue de participatione facienda*, the lawe will constrain that Particion shall be made amonge them. And yf there be two daughters, to whome the lande descendeth, then they be called two parceners and if there be thre daughters, then they be called thre parceners, and .iiii. daughters foure parceners, and so forth.

D. i.

And

Capl. 2.

And if a manne sealed of landes in fee simple or in fee taylor die without issue of his body begotten, and the tenementes dissende to his sytters, they be called parceners, as is aforesayde. In the same manner it is, where he hath no sytters, but the lande dissendeth to his aunes, they be parceners; but yf a man haue but one doughter, she may not be sayde parcener, but she shalbe called doughter and heyre.

Duers maners of parceners.

And it is to wytte, that partition betwene parceners may be made in dyuers maners, one is when they agree to make partition, and make partycyon of the tenementes, as yf there be two parceners, to deuyde betwene them the tenementes in two partes, euery parte by him selfe in seuerallie of euen value, and yf there be thre parceners to deuyde the tenementes in thre partes in seuerallie.

An other partycion there is, to chose by agreement betwene them, and certayne of theyr frendes, to make the partycyon of the landes & tenementes in the fourme aforesayde.

And in such cases after such partition the elder doughter shal chose fyrste one of the partes so deuided, whiche she wyll haue for her parte, and then the second doughter after her, her parte. &c. If it be so be, that there be many sisters. &c. If it be

hottat that they ne be otherwyle agreed
howene them, for it maye be agreed be-
tweue them, that one of them shall haue
such tenementes, and an other such tene-
mentes. &c. wout any such former electio.

¶ And the part that the elder syster hath
is called in latin enitia pars, but yf the
parceners agree, that the elder syster shall
make particion of the tenementes in the
fozme afozclayd, and yf she do, then it is
saide, that the elder syster shall chose last
her part, after eche of her other systers.

Enitia
Pars.

¶ Another partyeyon and allottyng
there is, as if there be. 4. parceners, and
after such particion made of the landes,
every part of the land is by it selfe wryt-
ten in a lytle scrowe, and is couered al in
ware, in maner of a lytle ball, so that no
man may se the scrowe, and then the.iiii.
bailes of ware be put in a bonet to kepe
in the handes of an indifferent man, and
then the elder doughter sy:st shall put her
hande in the bonet, which shall take a bal
of ware, and the scrowe within the same
ball for her part, and then the seconde sy-
ster shall put her hande in the bonet, and
shall take an other, and so then the thy:de
sy:ster, the thy:rd ball. &c. And in this case
it behoueth eche of them to holde them to
they: chaunce and allottement.

¶ Also an other partyeyon there is, as

if there be foure parcellers, and then they
not agre, that partycion shalbe made be-
twene the, then one of them maye haue a
wryt de participacione faciēda, agaynst
the other thre sydes, or two may haue a
wryt of participacione faciēda, agaynst
the other two, or the thyrde of the may haue
a wryt of participacione faciēda agaynst
the fourth of theyr election.

Judgement.

¶ And when Judgemente shalbe gyven
vppon suche a wrytte, the Judgemente
shalbe suche, that partycion shalbe made
betwene the parties, & the thyrde in his
propre person shall go to the landes and
reuenues. &c. and that he by the oth of
twelue true men of his Baylyweke. &c.
shal make partycion betwene the parties
the one parte of the same landes shalbe
assigned to the playntiffe, or to one of the
plaintiffes, & an other part to an other. &c.
not makinge mencyon in the iudgement
of the eldest syde more then of the yon-
geste. And of the partycion that the Shy-
rffe hath thus made, he shal make notice
to the Iudges. &c. vnder his Seale, and
the Seales of the. vii. &c.

¶ And so in this case maye ye see, that
the elder sister shal not haue the first elec-
tyon &c. but the thyrde shal assigne the
parte that she shal haue. &c.

¶ And it may be, that the thyrde wyl
assigne

assigne first a parte to the yongest syster,
and the laste parte to the elder. And note
wel, that partition by agreement betwene
parteners, maye by the same be made a-
monge them, as well by worde withoute
dede, as by dede. fol. .3. c. 4.

¶ Also, if two meses descend to. ii. parce-
ners, and the one mese is worth by yere
xx. s. and that other but. x. s. by yere, in
this case partition may be made betwene
them, in such fourme, that the one parce-
ner shal haue the one mese, and the other
partener shal haue the other mese, and he
that shal haue the mese of. xx. shyllinges
and his heyres, shal pay a yerelye rent of
b. s. issuinge out of the same mese, to the
other partener, and to her heyres for euer
bycause that euery of the shal haue euen
in value. Such partition made by worde
is good ynough. And the same partener
that shal haue the rent of five. s. and his
heyres may distreyn for the rent of com-
mon right in þe same mese of the value of
xx. s. if the rent of. b. s. be behynde at any
time so whole hādes so euer þe same mese
commeth, though there was neuer wry-
ting made of it betwene the of such rent.

But charge

¶ In the same maner it is of partycyon
of al maner of landes and tenementes. &c.
where suche rente is referred to one or
to dyuers parteners bypon suche parti-
cyon.

Distreyned
by common
right.

partition. &c. but such rent is not rent see
 uice, but is rent charge of common right
 had & reserved for egalite of the parties.
C And note wel, that none be called par-
 ceners by the common lawe, but women
 oꝝ the heires of women, and which come
 by landes and tenementes by descent, for
 yf sytters purchasc landes oꝝ tenementes,
 of this they ben called iointenantes, and
 not parceners.

C Also yf two parceners of lande in fee
 simple make partition betwene them. &c.
 and the parte of that one is moze woꝝthe
 than the part of the other: yf they were
 at the tyme of partition of full age, that
 is to say of. xci. yere, then the partition al-
 way shal abide, and neuer be defered: but
 if tenementes, wherof be made partitiōs
 be to them in fee talle, and the part that
 one hath is myche better in verely value
 then the part of the other, howe be it that
 they be excludet during theyꝝ luyes to de-
 fere the partiō, yet if the parcener that
 hath the lesse parte in value hath issue
 and dieth, the issue maye disagree to the
 partition, and entre and occupye in com-
 mon that other parte that was allotted
 to her aunt, and so the aunte may entre
 and occupye in common that other parte
 allotted to her sister, as no partition ther-
 of had ben made. &c.

Also

¶ Also if two partners of tenementes in fee take husbandes, and they and ther husbandes make partition betwene them, if the parte of the one be lesse in yerely value then the parte of that other, duringe the liues of the husbandes, the partition shalbe in his force and strength, & though that it shal stand duringe the liues of the husbandes, yet after the death of the husband, the wife þ hath the lesse part. &c. may enter in her sisters part, as is aforesaid & defete the partition, but if the partition so made betwene the husbandes, was such, that eche parte at tyme of the lottemente made, was egal of yerely value, and without incumbrance of former titles, then it may not after be defeated in such cases.

¶ Also if there be .ii. partners, and the yonger of them be within the age of .xii. yere, and partition is made betwene the so that the part that is allotted to the yonger, is lesse in value then the part of that other. In this case the yonger duringe the tyme of her nonage, and also when she cometh to ful age of .xii. yere, may enter into the pozeion to her sister allotted &c. and defete the partition. But such a partner ought to take hede, whē she cometh to ful age, that she ne take to her share all the profytes of þ tenementes to her allotted, for then she agreeth to the

Lautio.

particpon at suche age, in whiche case the partition shall stande and abyde in his force and strength. &c. But peradventure the pzoptyes of the halfe he may take, leauynge the pzoptyes of the other halfe to her syster.

¶ And it is to wyte, that when it is sayd, makes & females be of ful age, that shal be vnderstande of the age of .xvi. yere, for yf any beoffment oꝝ graunt, releafe, confirmation, oblygacion, oꝝ anye other wytyng befoze any such age he made by any of them. &c. oꝝ that any within suche age be baylyffe oꝝ recepuer to any man. &c. all is foꝝ nought, and may be auoyded.

¶ Also a man befoze such age shal not be swoꝝne in no iurpe noꝝ in no inquisition.

¶ Also yf any landes oꝝ tenementes be gyven into a man in the tayle, whiche hath as myche lande in fee simple, & hath issue two daughters, and dyethe, and the daughters make partition betwene them so that the landes in fee simple be allotted to the yonger daughter, in allowance of the other landes oꝝ tenementes tayled, allotted to the elder daughter, yf after such partition made, the yonger daughter alpenerth the lande in fee simple to an oꝝther in fee, and hath issue a son oꝝ daughter, and dyethe, the issue maye entres in the tenementes tayled, and them to holde

in propriety with the 2 aunte.

¶ And this is for two causes, one is for that the issue may haue no remedy of the land aliened by his mother, for that that

the lande was to her in fee simple, and in so much that she is one of the heyres in the taylor, and hath nothing recompensed of that that to her belongeth of the tenementes taylor. For this cause it is reason, that she haue her purpart of the tenementes in taylor, and namely when such partition maketh no discontinuance of the taylor, as shalbe sayd hereafter in the chapter of discontinuance. But the contrary is holden. *20. B. 6.* that is to say that the heyre may not entre by the parcener, that hath the lande taylor, but is put to his formedone.

¶ An other cause is for that, that it shalbe erected the folpe of the elder sister, that she wolde suffre or agre vnto such partition, where she myght haue had, yf she wolde, halfe the land in fee simple, and halfe of the tenementes in the taylor for her purpart, and so to be sure without damage. &c.

¶ Also yf a manne seysed in fee of a ploughe lande by iuste title, disseiseth an infante within age, of an other ploughe lande, and hath issue two daughters, and dyeth seased of bothe these ploughe

Cap. 5.

landes, the infant then being within age
and the daughters entre and make parti-
cyon, so that the one ploughe lande is al-
lotted to þ purparte of the one, as pccale
to the yonger sister in allowance of that
other plough lande that is allotted to the
purpart of þ other, if that after the infant
entreteth in the plough lande, of the which
he was disseised upon the possession of the
parcener, that hath the same plough land
thē the same parcener may entre into the
other ploughe lande, that her syster hath
and holdeth in parcenery with her, but if
the yonger syster alene the same plough
lande to an other in fee simple, befoze the
entre of the infant, & after the childe en-
tre vpon the possession of the alien, then she
may not entre in the other ploughe lande
foz this þ by her alienation she hath be-
terly dismissed her selfe, to haue any part
of the teneimētes as parcener. But if the
yonger sister, befoze þ entre of the infant
make therof a lease foz terme of yeres, oʒ
foz terme of lyfe, oʒ in fee taylor, laupng þ
reuercion to her, & after the childe entreteth
there peraduenture it is otherwyle, foz
this that she dismissed not her selfe of all
that that was in her, but hath reserved to
her the reuercion, and the fee simple. &c.
¶ Also if there be.iii. oʒ foure parceners
that make particion betwene them, if the
part

part of one pccener be defeted by such la-
ful entre, we may entre and occupy the o-
ther landes with all the other parceners
and compell them to make newe partitio-
of the other landes betwene them. &c.

¶ Also if there be two parceners, and the
one taketh an husbände, and the husband
and the wife haue issue betwene the. And
the wife dieth, and the husbände holdeth
him in the halfe, as tenaunt by the curte-
sye. In this case the parcener that surui-
ueth, and the tenant by the curtesye, may
well make partycyon betwene them. &c.

¶ And if the tenaunt by curtesye wyl not
agree to make particion, the the parcener
that suruiueth, may haue agaynst the te-
nant by the curtesye, a wryt de participa-
cione facienda. &c. and cōpel him to make
particion. But if the tenant by the curte-
sye wyl haue particion made betwene them,
and the parcener, that suruiueth wyl not
haue it, then the tenaunt by the curtesye
shall haue no remedye for to haue party-
cion, for he may not haue a wryt de par-
ticipacione facienda, for this that he is
not parcener, for such a wryt lieth for par-
ceners onely. And so ye maye se, that the
wryt de participacione facienda lyeth a-
gaynst the tenant by the curtesye, & yet him-
selfe may not haue suche a wryt.

¶ Parceners by the custome. Cap. ii.

Parceners

Copy

Gavelkind

Precedence by the custome be, where a man lealed in fee simple, or fee taylor of landes or tenementes, that be of the tenure called Gavelkind, within the shyre of Kentte hath issue dyvers sonnes, and dyeth, the such landes and tenementes shall discende to all the sonnes by the custome, and they euery shall inheryte, and make partition betwene them by the custome, as females do, and a wyttede participacione facienda, lieth in this case as betwene females, but it behouethe in the declaracyon to make mencyon of the custome. Also suche custome is in other places in England, and also such custome is in North Wales.

Particlio a
a Super
ibus.

Also there is an other partycyon that is of an other nature, and of an nother fourme then any of the particions aforesayde be, as yf a man lealed of certayne landes in fee simple hath issue two doughters, and the elder is married, and the father gyueth parcell of the same landes to the husband with his doughter in frāke marriage, and dyeth seyled of the remenant the which remenant is of more and greater value by yere, then be the landes gyven in frāke marriage: In this case the husband nor the wyfe shal haue nothyng for theyr parte of the sayd remenant, but yf they wyll put theyr landes gyven in frāke

Parte by custome. fol. lxxiij.

Frank marriage in huchepot, with the re-
menant of the lande with her by her, and
if they wyl not do so, then the yonger sis-
ter may hold and occupie the same reme-
nant, and take to her the profits onely:
and it seemeth that this woodehochpot, is
in Englyshe a pudding, for in such a pud-
dunge is not commonly put one thyng
duely, but onerhyng with an other togy-
ther, and for this it behoueth in suche
case to put the landes gyuen in franke
marriage with the other landes in Hoch-
pot, yf the husbände, and the wyfe wyl
haue any part in the other remenant. &c.

¶ This woodehochpot is but a terme
of similitude. And is as muche to say, as
to put the landes gyuen in franke mar-
riage, and the other landes in fee symple to-
gyther. And this is to such sentence, to
knowe the value of al the landes, that is
to say, of the landes gyuen in franke ma-
riage, and the remenant that was not gy-
uen, and then partition shall be made in
this fourme that ensueth.

¶ As put case a man be sealed of. xxx. ac-
res of lande in fee symple, euery acre in
value. xlii. d. by the pere, which hath three
doughters, and the one is couerte barsh
and the father gyueth. x. acres of the. xxx.
acres to the husband with his doughter
in franke marriage, and by the sealed of
the

Cap. 2.

Hochpot.

also

the remenant, then the other syster shal
 enter in the remenant, that is to saye, in
 the twenty acres, and shal occupie it to
 her owne vse, excepte the husbände and
 the wyfe wyl put they. .x. acres gyuen to
 them in franke maryage with the other
 .xx. acres in Botchepot, that is to say, to-
 gyther, and then when the value is knos
 wen of euery acre, that is to saye, euery
 acre is verely wo:th .xii. d. the the partis
 cion shalbe made in such forme, that is to
 say, that the husbād & the wyfe shal haue
 aboue the. .x. acres gyue to the in franke
 marriage. .v. acres in seueraltie of the .xx.
 acres, and that other syster shal haue the
 remenant, that is. .xv. acres of the .xx. a-
 cres þ the husbād & the wyfe had by the
 gift in franke marriage and the other. .v. a-
 cres of the .xx. acres, the husbād and the
 wyfe hath asmuch in verely value as that
 other sister hath, and so alway vpon such
 particion the landes gyuen in franke ma-
 riage abide to þ donces, o: to they: heires
 after the fourme of the gyfte. For if the
 other partener shulde haue nothyng of
 this that is gyuen in franke maryage, of
 this shulde folowe an inconueniēce, and
 a thyng agaynst reason, that is to saye
 the franke marriage shuld be made boide,
 which the lawe wyl not suffre. &c.

Barce by custome.

Pol. lxxv.

Capl. 3.

¶ And the cause why the landes gyven in franke mariage, shalbe put in hochpot is, that when a man gyveth landes and tenementes in franke mariage with his doughter, or with his other cousin, it is to vnderstand by the lawe, that such gifte made by suche wordes franke maryage, is an auancement of his doughter or of his cousin, and namely when the donour and his heires shal not haue any rent nor scrupce of them, excepte fealtie, vnto the fourth degree be passed. &c. And for suche cause the lawe is, that she shal haue no thyng of the other landes and tenementes descended to the other parencers. &c. but if she wyl put the tenementes giuen in franke mariage in Hochpot, as is as forsaide, but if she wyl not put the landes gyven in franke maryage in Hochpot then she shal haue nothyng in the reme-
nant for þ this it shalbe vnderstande by the lawe, that she is suffycientlye auanced, to whiche auancement she agreed, and holdeth her content.

¶ And the same law is betwene þ herres of the donces in franke maryage, and the other parencers, as to put in hochpot &c. If the donces in franke maryage dye before they haue auncesters, or before such particyon. &c. as to put in hochpot. &c.

¶ And note wel that giftes in franke mariage was by the comon law before þ was

ture of Westminster the feconde, and al
 way after fo hath ben bled, & continued. &c.
 ¶ Also fuch puttyng in Dower. &c. is
 where landes oꝝ tenementes that were
 gyuen in franke mariage difcende fro the
 donours in franke mariage al only, foꝝ if
 the landes difcende to the doughters by
 the father the donour, oꝝ by the mother
 the donoure, oꝝ by the brother the donour
 oꝝ other auncelers, and not by the do-
 nor, &c. there it is otherwife. foꝝ in fuch
 cafe ſhe to whome ſuche gyfte in franke
 mariage is made, ſhal haue her part, as if
 no ſuche gyfte in franke maryage had ben
 made, foꝝ this that ſhe was not auanced
 by them. &c. but by an other.

¶ Also yf a man ſeyſed of .xxx. acres of
 land, and euery acre of euen perely value
 hauynge ille two doughters, as it is a-
 forſayd, and giueth of this to the hous-
 band of the doughter. xv. acres in franke
 mariage, and dieth ſeiſed of the other. xv.
 acres, in this cafe that other ſyſter ſhall
 haue x. xv. acres ſo deſcended to her on-
 ly, and the huſband and the wiſe ſhal not
 put in ſuch cafe the. xv. acres to them gi-
 uen in franke mariage in Dower. &c.
 foꝝ this þ the tenemētes gyuen in franke
 mariage, be of as great & as good perely
 value, as the other landes deſcended. &c.
 foꝝ yf the landes gyuen in franke mary-

age were of, as cuen valuc as the remenaunt
oz of moze valuc, then in bayne and to
none current; such landes giuen in franke
marriage; shall be put in hochepot. .sc. for
this that the maye haue nothyng of the
other landes descended. .sc. For yf she
shuld haue any parcell of the other landes
descended, then shoulde she haue moze in
yereely valuc then the syster. .sc. which the
lawe wyl not. .sc. And as it is sayd in the
cases aforesayd of two daughters, oz two
parceners, in the same maner and in like
case is, where there be mo sisters, after
that as the case and the matter is. .sc.

¶ And it is to wytte, that landes and te-
nementes gyuen in franke marriage, shall
not be put in hochepot, but with þ landes
descended in fee simple, for of landes des-
cended in fee tayle, particula shalbe made
as if no such gyft in franke marriage had
ben made.

¶ Also no landes shalbe put in hochepot
with other, but landes that be gyuen in
franke marriage all onely. For yf any wo-
man haue any other landes oz tenemen-
tes by any other gyft in þ tayle, she shall
neuer put such lande so giuen in hochepot
.sc. but she shal haue her part of the reme-
naunt descended. .sc. that is to saye, as
muche as the other parceners shal haue
of the same remenaunt.

Also an other partycion maye be made betwene parceners, that varieth from al the partycions aforesayde, as yf there be iii. parceners, and the yongest wolde haue partycion, and the other two wolde not, but wyl holde in parcenerye that, that to them belongeth without partycion. In this case, if one part be allotted in seueraltie to the yongest sister, after that that she ought to haue, then þ other may hold the remenant in parcenerie, & occupie in common without partycion, yf they wyl & such partycion is good ynough. And yf after the elder and myddle parcener wyl make partyciõ betwene them of that that they hold, they may wel do so when they please, But where partycion shalbe made by force of a wyrt de participacione facienda. &c. there otherwise it is, for there it behoueth þ euery parcener haue his part in seueraltie. &c. More shalbe said of parceners in þ chapter of iointenautes & also the chapter of tenants in common. &c.

Iointenautes. Cap. iii.

Iointenautes be, as if a man scised of certaine landes oꝝ tenemētes. &c. and thereof hath enfeoffed two oꝝ thre oꝝ foure oꝝ mo, to haue and to holde to them and to theyꝝ heires in fee, oꝝ to haue & to hold to them for terme of theyꝝ lyues, oꝝ for terme of an others lyfe, by force of

whiche

which feoffment or lease, they be sealed, **Cap. 3.**
 suche be jointenantes.

E Also if two or iii. dysseise an other of
 any landes or tenementes to the y^e owne
 ble then the dysseisors be jointenantes
 But if they dysseise an other to the ble of
 one of them, then be they no ioyntenantes,
 but he to whom the ble of the dysseisyn
 is made, is sole tenant, and the other
 haue nothyng in the tenance, but be cal
 led Coadiutours to the dysseisin. &c.

And note wel, that dysseisin is proper **Dysseisin.**
 ly where a man entreth in any landes or
 tenementes, where his entre is not law
 full and putteth hym oute, that hathe the
 franke tenement. &c.

And it is to wytte, that the nature of
 iointenancie is, that he that suryvethe **Maxime.**
 shall haue onely the hole tenance after
 suche estate as he hathe, if the ioynture be
 continued. &c. As if thre ioyntenantes be
 in fee simple, and the one hathe issue and
 dyeth, yet they that suruiue shal haue the
 tenementes hole, and the issue shall haue
 nothyng. And if the seconde iointenante
 haue issue and dye, yet the thyr^d that sur
 vyuethe, shall haue the tenementes hole,
 and shal haue the in fee simple to hym &
 to his heires for ever, but otherwise it is
 of parceners. For if thre parceners be, & be
 fore any particio made, the one hath issue

Capl. .1.

and dyeth, that that to hym belongeth shall descende to his issue. And if sucche a percer dye without issue, then that that to her belongeth shall descende to her heyres so that they shall haue this by discre, and not by the suruivour, as iointenances haue. &c. And as the suruivour holder the place amonge iointenances. &c. in the same maner he holder the place amonge they that haue ioint estate, or possession with other of charell royall, or charell personall. As if a lease of landes or tenementes be made to many for terme of yeres, he that suruiveth of the leasees shall haue the tenementes hole to him, duringe the terme by force of the same lease.

¶ And if horse or other charell personall be gyven to many, he that suruiveth shall haue the horse to him selfe.

¶ In the same maner it is of dettes and duties. &c. For if an obligation be made to many for one dutie, he that suruiveth shall haue al the dette or dutie, and so it is of al other couenauntes and contraites.

¶ Also some iointenances maye be, that may haue ioint estate, and be iointenances for terme of their lyues, and yet they haue seueral iustifications. As yf landes be gyven to two men, and to the heyres of theyr two bodies engendred, In this case the dones haue ioint estate for terme

of

Ioyntenauntes. Fo. lxxv.

Cap. 1.

they; two lyues, and yet they haue seuerall inheritaunces. For yf the one of the donees hath issue, and dyeth, the other that suruiveth shall haue all by the survivor for terme of his life, and if he that suruiveth hath also issue and dye, then the issue of the one shall haue the halfe of the lande, and the issue of the other, shall haue the other halfe of the land, and they shall holde the lande betwene theym in commune, and be not ioyntenauntes, but tenauntes in commune.

¶ And the cause that suche donees in suche case haue ioynt estate for terme of they; liues, is, for this that at the beginning landes were giuen to the two, whiche two; des without more sayeng make a ioint estate to the for tyme of they; lyues. ¶ For if a man wyl let lande to an other by dede, or without dede, not makinge mention what estate he hath, and of this maketh livery of seisin. In this case the lessee shall haue estate for terme of his life and so, in so muche that the landes were giuen to them, they haue a ioynte estate for terme of they; lyues: and the cause why they haue seuerall inheritaunce, is this, in so much that they can not by possibilitie haue an heire betwene them ingendred, as a man & a woman may haue &c. than the lawe wyl that they; estate

¶.iii.

and

and they? inheritance shalbe such as reason wyll, after the fourme and effecte of the wordes of the gyft, and that is to the heyres that the one engendzeth of his bodye, by any of his wyues, and the heyres that the other engendzeth of his bodye by any of his wyues. &c. so it behoueth by necessity of reason, that they shall haue several inheritances. And in suche case yf the yssue of one of the donees, after the deathe of the donees, dye, so that he hath no issue alpye of his body engendzcd, then the donour of his heyre may entre in the halfe, as in his reuercyon, though the other of the donees hath issue alpye. &c. And the cause is, for so much that the inheritances be seuered. &c. the reuercyon of them in the lawe is seuered. &c. and the suruiuoure of the issue of the other, shall holde no place to haue the hole.

¶ And so as it is sayd of males, in the same maner it is, where land is gyuen to two females, and to the heyres of they? two bodyes begotten.

¶ Also if lades be gyuen to two females and to the heyres of one of them, this is a good iointure, and the one hath a freeholde, and the other hath fee simple, and if she that hath the fee dye, she that hath the freeholde, shall haue the hole, by the suruiuour, for terme of her lyfe.

In the same manner it is where tenementes be given to two, and to the heyres of the body of one of them engendred, the one hath freholde, and the other fee taylor.

Also yf two jointenantes be leased of estate of fee simple, and the one granteth a rent charge by his dede to an other, out of that that to hym belongeth. &c. in this case during the life of the grantour, the rent charge is effectual. But after his decease the rent charge is voyde, as to charge the lande, for he that hath the lād by the survivor shal hold al the land discharged. And the cause is for this, that he that surpueth: claymeth to have the lande by the survivor. &c. and not by descent of his felowe. &c. But otherwys it is of parceners, for if there be two. parceners of tenementes in fee simple, and before any particiō made, the one chargeth that that to him belongeth by his dede of a rent charge. &c. and after dyeth without issue, that to him belongeth, descendeth to the other parcener. In this case the other parcener shal hold the lande charged &c. for this that he commeth unto that halfe by descent, as heyre. &c.

Deuple.

Also if there be two jointenantes in fee simple within a borough, where the landes and tenementes be deuplable by testament, if one of the laid jointenantes deuple that, that to hym belongeth

Capl. 1.

by testamente. &c. and dye, this denyse is
boyde. And the cause is for this, that no
deuise may take effect, but after þe death
of the deuiseur. And for this that by his
death al the lande incontynent commeth
by the lawe to his felowe, that suruiuerth
by the suruiuour, whiche ne claymeth no
barth nothyng in the lande by the deuise
but in his owne ryght by the suruiuour
after the course of the lawe. &c. for this
cause suche deuise is boyde.

¶ But other wyse it is of parceners seys
sed of tenementes deuysable in such case
of deuise. &c. Causa qua sup: a.

¶ *Ex parte.*

¶ Also it is commonly sayde, that eue
ry ioynt tenaunte is seased of the lande
that he holdethe ioyntly. &c. thzough and
by all. And this is as muche to saye, that
he is seased by euey parcel, and by al. &c.
And this is true, for in euey parcell and
parte, and by eche parcell, and by all the
landes and tenementes, he is ioyntly sea
sed with his felowes. &c.

¶ Also if two ioint tenants be seysed of
certayne landes in fee simple, and the one
letheth that that to hym belongethe to a
stranger for terme of .xl. yere, & dyeth, be
fore the terme begin, or within the terme
in this case after his deceasse the lessee
maye enter and occupye the halfe to hym
lesten, durynge the terme. &c. though the
lessee

lessee neuer had possession of it in the lyfe
of the lessour by force of þ same lease. &c.

¶ And the dyuersitie betwene the cause
of the graunt of the rent charge aforesayd
and this case is this. For in the graunt
of a rent charge by a ioyntenaunt, the te-
nantes abide alway, as they were afoze
without that, that any hath any ryght
to haue any parcel of the tenementes but
them selfe, and the same tenementes as
byde in such plite as they were befoze the
charge. &c.

But where a lease is made by a iointenat
to an other for terme of yeres. &c. in conty-
nent by force of þ lease þ lessee hath ryght
in the same land, that is to say, of al that
that to his lessour belonged, and to haue
that by force of the same lease, durynge
his terme. &c. & this is the diuersitie. &c.

diuersitie.

¶ Also iointenantes if they wyl, maye
make particion betwene the, and the par-
ticion is good ynoughe, but they shal not
be compelled by the lawe to do it, but yf
they wyl make particion of theyr propre
wyl and agremente, the partycion shal
stande in his strength. D. 3. E. 4.

¶ Also yf a ioynte estate be made of
lande to the husbande and the wyfe, and
to the theyr persone, in this case the
husbande and the wyfe haue not in the
lawe in theyr ryght, but the halfe. &c. and

the thyrd persō that haue as much as the husband & the wyfe hath, that is to say þe other halfe. &c. And the cause is, for þe husband & the wyfe be but one persō in the law, and be in lyke case as yf estate be made to two iointenantes, where the one hath by force of iointure the one halfe, and the other the other halfe.

¶ In the same maner is, where estate is made to the husband and the wyfe, and to other two men: In such case the husband and the wyfe haue not but þe thyrd part, and the other two men the other two partes. &c. causa qua supra. More shalbe sayde of the matter, touchyng iointures nauncyd in the chapyter of tenantes in common, tenante par elegit, and tenante by estatute marchaunte.

¶ Tenantes in common.
Capitulum xiiii.

Tenantes in common be they, that haue landes or tenementes in fee simple, fee taylor, or for terme of yere. &c. and those they be, whiche haue such landes and tenementes by severall tytles, and not by ioynte tytle, and no man knoweth that that is scueral to hym but they oughte by the lawe to occuppe such landes or tenementes in common & bidden to take the profytes in common. And bycause that they come to
suche

suche landes and tenementes be severall
tytles, and not by one seldie ioynte tytles,
they; occupacion and possession shalbe by
the lawe ambigge theym in common, and
be called tenants in common.

¶ As yf a man enfeoffe two ioynttenan-
tes in fee, and the one of them aliyenethe
that that to him belongeth to an other in
fee, now the other ioynttenant and the
aliene be tenants in common, for this
that they be sealed in such tenementes by
severall tytles, for the aliene commeth
in the halfe by the feoffment of the ioynt
tenant, and the other ioynttenant hath
the other halfe by force of the fy; the feof-
ment made to him and to his first felowe
and so they be in by severall titles, and by
several feoffmentes. &c.

¶ And it is to wyte, that when it is sayd
in anye booke, that a man is sealed in fee
without moze sayeng, it shalbe vnderstand
fee simple, for it shall not be vnderstande
by such worde in fee, that a man is sealed
in fee taylor, excepte yf there be put thereto
such addicion, that is to say, fee taylor.

¶ Also yf thre ioynttenantes be, and the
one of them aliyeneth that that vnto him
belongeth, to an other man in fee. In
this case the aliene is tenant in common
with the other two ioynttenantes. But
yet the other two ioynttenantes be sealed

of

Fee simple

of the two partes ioynte, and of these two partes the suruivour betwene them holdethe place. &c.

¶ Also yf there be two ioyntenauntes in fee, and the one gyueth that that vnto him belongerth to an other in the taile, the donee and the other iointe tenaunt be tenants in common. &c.

¶ But if the landes be giuen to two men and to the heyres of they; two bodies engendred, the donees haue ioynt estate for terme of they; lyues, and yf eche of them haue issue and dye, they; issues shal holde in common. &c.

¶ But if landes be giuen to two abbots as to the abbot of westminster, and to the abbot of saynt Albons, to haue & to holde to them and they; successours: in this case they haue incontinēt at the beginning estate in common, and not ioynte estate. And the cause is for this, that euery abbot or other soueraygne of an house of relygion, befoze that he be made abbote or soueraygne, was but a deade man in the lawe. And when he is made abbot, he is a man personable in the lawe, alone lyve to purchase and to haue landes and tementes, and other thynges to the vse of his house, and not to his owne propre vse, as other secular men may. And for this in the beginning of they; purchase, they be
tenantes

Tenant in common. Fol. lxxi.

Capl. 2.
tenauntres in common. And yf the one of
them dye, the abbot that surpuerth shall
not haue al by the suruivour, but the suc-
cessour of the abbot that dyerth shall holde
the halfe in common with the abbot that
surpuerth. &c.

¶ Also yf landes be gyuen to an abbot
and to a secular man, to haue and to holde
to them, that is to saye, to the abbot and
his successours, and to the secular man, to
him and to his heires, they haue estate in
common. Causa qua sup: a.

¶ Also if landes be gyuen to two men to
haue and to holde, that is to wyt, the one
halfe to the one and to his heires, and the
other halfe to the other, and to his heires,
they be tenauntres in common. &c.

¶ Also if a man leased of certayne landes
enfeoffeth an other in the halfe of þe same
lande, withour any speche of assygnement
oz lymytacion of the same halfe in fees
raltye, at the tyme of the feoffement, the
the feoffee and the feoffoure shall holde
theyr partes of the land in common. And
in the same maner it is as aforesaid of te-
nauntres in common of landes oz tenementres
in fee simple oz fee ralye, in þe same maner
may it be said of tenauntres for terme of yers.
¶ As yf two iointenauntres be in fee, and
the one letteth to a man that that bur-
ghym belongeth for terme of yers, and the
other

Cap. 4.

the other iointenant letterly that that to hym belongethe to an other for terme of lyfe, these two lesses be tenants in common for terme of theyr lyues. &c.

¶ Also if a man let landes to two men for terme of theyr lyues, & the one graunterh al his estate of that that unto hym belongeth to an other. &c. the other tenant for terme of lyfe, & he to whom the graunt is made, be tenants in common, during the tyme that both lesses be a lyue. &c.

¶ And it is to be remembred, that in all other such cases, though that they be not here expressly named or specified if they be in the reason they be in the lawe.

¶ Also if there be two iointenantes in fee and the one letteth that that unto him belongeth to an other for terme of his life, the tenant for terme of lyfe, during his lyfe, and the other iointenant that dyd that lette be tenants in common.

¶ And upon this case a question may arise as thus. But the case that y^e lessour hath issue and dieth, leuynge that other iointenant his felawe, and lyving the tenant for terme of lyfe, the question may be such yf the reuercion of the halfe. &c. that the lessour hath, shall descende to the issue of the lessour, or that the other iointenant shall haue it by the survivor.

¶ And some haue sayd in this case that if other

Tenant in common.

fol. lxxii.

Capl. 4.

other ioyntenant shal haue the reuercion by the suruiuour, and they; reason is such when the ioyntenantes were ioyntly leased in fee simple. .sc. though p one of them made estate of that p unto him belongeth so; terme of lyfe, & though that he hath seuered franke tenemente of that that to him belongeth by the lease, yet he hath not seuered the fee simple. But the fee simple abydeeth to hym iointly, as it was before. And so it semeth vnto the, that the other ioyntenant that suruiueth, shal haue the reuercion by the suruiuour. .sc.

¶ And other haue sayd the contrary, and this is they; reason, that is to say, when one of the ioyntenantes letteth that that to him belongeth to an other so; terme of his life, that by such lease the franke tenement is seuered from the ioynture. And by the same reason, the reuercion that is dependant vnto the same franke tenemente, is seuered from the ioynture.

¶ Also yf the lessour had reserved to hym a perely rent vpon the lease, the lessour onely shal haue the rent. .sc. The whiche is a pofe, that the reuercion is onely in hym, and that the other hath nothing in the reuercion.

¶ Also yf the tenaunte so; terme of lyfe were impleded, .sc. & made default after defaulte, then the lessour shal be only of this receyued

Cap. 1.

Conu

Abc

on 21

800

Inquire.

receiued to defende his ryght, and his fe-
lowe, in this case in no maner shall be re-
ceiued, whiche proueth that the reuer-
sion of the halfe is onelye in the lessour.
And so by consequens, if the lessour dye
leaving the lessee for terme of lyfe, the re-
uersion shall disceide to the heire of the
lessour. &c. and not come to the other ioin-
tenant by the survivor. *Idco quere.* But
in this case if the iointenant that hadde
the franke tenement haue issue and dye,
leaving the lessour and the lessee, then it
semeto that the issue shall haue the halfe
in his demesne, as of fee, by disceint, for
this that the franke tenement may not by
nature of the iointure be annexed to a re-
uersio. &c. And it is certayne, that he that
letted, was seised of the halfe in his de-
mesne as of fee, and none shall haue any
iointure in his franke tenement. Ergo
this shal disceind to his issues. *Sed quere*
¶ But if it be thus that the lawe in this
case is such, that if the lessour die, leaving
the lessee, and leaving the other ioin-
tenant that hadde the franke tenement of
the other halfe, that the reuersion shall
disceide to the issue of the lessour, than
is the iointure and the title that anye of
them maye haue by the survivor, and
ryght of the iointure adnullid and ab-
terly defeted for ever.

Inquire.

In the same maner it is, if the iointen-
nant that hath the franke tenement dye,
tyingge the lessour and the lessee, if the
lawe be suche, that his franke tenement
and see that he hath in the halfe, shal des-
cende to his issue, then the iointure shall
be defeted for ever. &c.

Also yf thre ioyntenauntes be, and
one releaseth by his dede to one of his fel-
lowes, all the ryght that he hath in the
lande, then hath he, to whome the release
is made, the thyrde part of the landes by
force of the release, and he and his felowe
shal holde the other two partes iointly.

And as to the thyrde part that he hath by
force of the release, he holdeth that thyrde
part with him selfe & his felow in comon.

And it is to wote, that somtyme a dede
of release shall take effect, and shalbe en-
bre to put the estate of him that made the
release to hym, to whome the release is
made, as in the case aforesayde. Release.

And also if a iointe estate be made to
the husband and his wyfe, and to a third
person, and the thyrde parson releaseth
his ryght that he hath. &c. to the husband
then hath the husbände the halfe that the
thyrde personne hadde, and the wyfe of
this hath nothyng. And if in suche case
the thyrde release. &c. to the wyfe, not
nampyng the housbände in the release,

then hath the wyfe the halfe that the
 thyſde perſonne hadde: and the huſband
 hath nothyng of this, but in ryghte of
 his wyfe, for this that in ſuche caſe the
 releaſe ſhal enure to put the eſtate to hym
 to whome the releaſe is made of al that
 that belonged to hym that made the re-
 leaſe. &c.

¶ And in ſome caſe a releaſe ſhal enure
 to put all the ryghte that he hath, that
 made the releaſe, to him to whom the re-
 leaſe is made.

¶ As yf a man ſealed of certayne landes
 and tenementes is diſſeiſed by two diſſei-
 ſours, if the diſſeiſee by his dede releaſe
 al his right. &c. to one of the diſſeiſours
 then he to whom the releaſe is made, ſhal
 haue & hold al the tenementes to him on lye
 & put out his ſelow of euery occupation
 of it. And the cauſe is for this, that the. ii.
 diſſeiſours were ſeyſed in the tenementes
 by wrong by them done againſt the law.
 And when one of them hath the releaſe of
 him þ had right to entre. &c. thys ryght in
 ſuch caſe reſteth in hym, to whom the re-
 leaſe is made, and is in ſuch plight, as if
 he that had the right had entred and en-
 feoffed him. &c. And the cauſe is for this
 that he that had the eſtate by wrong, that
 is to ſaye, by diſſeiſyn. &c. he hath now
 by the releaſe a ryghtfull eſtate,

Tenant in common. fol. lxxiii.

¶ Also in some case a release shall enure by way of extinguishment, and in suche case such release shall helpe the iointenant to whome the release was not made, as wel as him, to whom the release is made.

¶ As yf a man be disseysed, and the disseisor maketh a feoffemente to two men in fee, if the disseysor release to one of the feoffees in fee by his dede, then such release shall enure to both the feoffees, for this that the feoffees haue estate by the lawe that is to say, by feoffement, and not by wronge done to any other. &c.

¶ And in the same maner it is, if the disseysor make a lease to a man for terme of lyfe, the remainder ouer to an other in fee, yf the disseysor release to the tenant for terme of lyfe al his right. &c. This release enureth aswel to hym in þ remainder, as to the tenant for terme of lyfe, and shall ayde and maintaine the right of him in the remainder, as wel as the right of the tenant for terme of lyfe. &c.

¶ And the cause is for this that þ tenant for terme of life cometh to his estate by the course of the lawe. And for this the release shall enure and take effect by way of extinguishment of the right of him that hath released, &c. And by this release the tenant for terme of lyfe hath no greater estate thē he had before the release

It. ii,

made

Cap. 4.

D. 5. C. 4.

made vnto him, and the right of him that released is all betterly extincte. And in so much that such a release can not enlarge the estate of y^e tenant for terme of lyfe, it is reson that the release shal enure to him in the remainder .&c. More shalbe sayde of releases in the chapter of releases.

¶ Also if there be two parceners, and y^e one alpeneth that vnto him belongeth to an other, then the other parcener and the alpenor be tenants in common.

¶ Also tenants in common maye be by tyle of prescription, if the one & his ancestors, or they, whose estate he hath in y^e halfe, have holden in common, the same halfe with the other tenant that hath the other halfe, & with his ancestors or them whose estate he hath, as bndeuyded; fro tyme whereof no memo^rye runneth. &c. And diuers other maners may make and cause men to be tenants in comon, that be not here exp^ressed.

¶ Also in some case tenants in common ought to haue of they^r possession severall actions, & in some case they shal ioinc in one actiō. For if there be two tenants in common, & they be dyspleyd, they oughte to haue against the dyspleyfour two assises and not one assise, for euerye of theym oughte to haue an assise of his halfe. &c. And the cause is for this, the tenants in common

Tenant in common. Fol. lxxb.

common were leased by several tytles, but
otherwyle it is of ioyntenantes. For yf
there be .xx. iointenauntes, and they be
dysseased, they shall haue in all theyr na-
mes but one assyse, bycause that they had
but one ioynte tytle.

Cap. 4.

¶ Also if there be .iii. iointenantes, and
one releaseth to one of his felowes all the
ryght that he hath, and after þ other two
be dysseased of the holo. &c. In this case þ
other .ii. shal haue several assises in this
for me, þ is to say, they shall haue in both
theyr names one assise of the two partes,
&c. for this that they held the two partes
iointly at þ tyme of þ disseisin. And as to
the third part, he to whom the relese was
made ought to haue therof an assise in his
owne name, for this that as to the thyrd
parte he is tenant in commō. &c. for this
that he came to that thyrd part by force
of the relese, and not onely by force of the
ioyniture. Also as to seue actions þ tou-
cheth the royaltie there is dyuersytie be-
twene parceners that be in by dyuers dis-
cettes, and tenauntes in common.

¶ For if a mā leased of certain landes in
fee haue issue two doughters and die, and
they entre. &c. and eche of them hath issue
a sonne, and dye without partycypō made
betwene theym, by whiche the one halfe
descendeth to the son of þ one parcener, &

Parcener
by dyuers
discettes
disseised
shall haue
in theyr .ii.
names one

It. iii.

the

Lyttelton liber. 3.

Capl. 4.
Wife, and
ot. ii. assy:
ss.

the other halfe descenderh to the sonne of
the other parcener, and they entre and oc
cuppe in common, and be diseased, in th^s
case they shall haue in they^r two names
one assyse, and not two assyses. And the
cause is, that though they come in by dy
uers dyscetes. & yet they be parceners
and a wytte de participacione facienda
lyeth betwene them, and they be not par
ceners hauing regarde o^r respect onely to
the seisin & possession fro they^r mothers,
but they be parceners haunye moze res
pect to the estate that descended fro they^r
grandfather to they^r mothers, fo^r they
maye not be parceners where they^r mo
thers were not parceners befoze. &c.

¶ And so to such respecte and consydera
cion, that is to wyt, as to the fy^rst dyscēt
that was to they^r moders, they haue a ti
tle in parcener, the whiche maketh them
parceners. And also they be put as one
hey^re to they^r common ancestors, that is
to say to they^r grandfather, from whom
the land descended to they^r mothers. And
fo^r these cases befoze partycion betwene
thē. &c. they shuld haue one assise, though
they come in by seuerall dyscetes.

¶ Also yf there be two tenauntes in
common of certayne landes in fee, and
they giue the same lande to an other man
in the taylor, o^r lette it to an other man

fo^r

foz terme of lyfe, yeldyng an annuyte;
o: certayne rente, and a pounde of pepper
o: an hauke, o: an ho:se, and they ben sea
sed of the scruiues, and after all the rente
is behynde, and they dyscreyne fo: it, and
the tenant maketh the rescous. In that
case as to the rent & the pound of pepper,
they shall haue two assises, and as to the
hauke, and the ho:se but one assise, and
the cause why they haue two assises as to
the rent and pounde of pepper is this, in
so much that they were tenants in com
mon by seuerall tytles, and whan they
made a gift in the taile, o: lease fo: terme
of lyfe. &c. sauyng to them the reuercion
and yeldyng to them certayne rente. &c.
Suche reueruacion is incydente to they:
reuercyon.

¶ And fo: thys that they: reuercyon is
in common, and by seueralle tytles, as
they: possesyd was befoze they: rent and
other thynges, that maye be seuered and
were to the reserued vpon the gift, o: vpon
the lease, whiche be incydent by the
lawe to the reuercion, such thynges so re
serued was of the nature of the reuercyon
whiche reuercion is to them in comon by
seuerall tytles. And it behoueth, that the
rent of the pounde of pepper, which may
be seuered, be to the in comon by seuerall

titles. And of this they shal haue two assises, and euery of them in his assise, shall make his playnte of the halfe of the rente and of the halfe of the pounce of pepper. &c. But of the hauke and the hols, why the can not be leuered, they shal haue but one assise, for a manne maye not make a playnte in assise of the halfe of an hauke, or of the halfe of an hols. &c. In the same maner it is of other rentes and seruyces, that tenants in common haue in grolle by dyuers titles.

¶ Also as to actions personals, tenants in common ought to haue suche arryons personals iointly in al theyr names, that is to say, of trespassse, or of offences that touche theyr tenementes in common. As of bzeakynge of theyr houses, bzeaking of theyr closures, and pastures, wastynge, and defowlyng of theyr grasse, curtyng of theyr wodde, and so fylshe in theyr poudes, and suche other. In this case tenants in common shall haue one action iointly, and recouer iointlye damages, bycause that the action is in the personaltie, and not in the realtie.

Tenauntes
in common
shall haue
an action
of dette.

¶ Also yf two tenants in common make a lease of theyr tenementes to another for terme of ycares, peldynge by to them yerely a certayne rent durynge the terme, yf the rent be behynde. &c. the
tenantes

Tenante in common.

Pol. lxxvii

tenantes in common shall haue one actiō of dette agaynst the lessee, and not dyuers actiōs, for that the actyon is in the personallie. But in a uoury for the sayd rent they ought to seuer, for that is in the realtie, as the assise is aboue.

Cap. 4.

Quourte.

¶ Also tenants in common may make particiō betwene thē if they wyl, though they shall not be compelled by the lawe. But if they make particiō betwene thē by theyr agremente and assent, such particiō is good ynough, as it is adiudged. in the boke of assise. D. 7. E. 4.

**Particlo
ex consensu**

¶ Also as there be tenants in common of landes or tenementes. &c. as is aforesayd. In the same maner there be possessions and properties of chatell real, and chatell personall. As if a lease be made of certayne landes to two men for terme of xx. yerres, and when they be therof possessed, the one of the lessees graunteth that that vnto him belongethe, durynge the terme to an other, then he to whome the graunt is made, and the other shall holde and occupie in common.

**Tenautes
in common
of cattell.**

¶ Also yf two ioyntenautes haue the warde of the bodye, and of the landes of the chyld within age, and that one of them graunteth to an other that that vnto him belongeth of the same warde, then the graūtee, and the other that granteth

B. b.

not

not, shal haue and holde it in cōmon. &c.

In the same maner it is of chatels personals, as yf two haue a toynt estate by gyfte, oꝝ by byenge of an hoꝝle oꝝ an oꝝe. &c. and the one graūtereth that that to him belongeth to an other. &c. The ꝑ graūtee and he that graunted not, shal haue and possesse suche chatels personalles in common. &c. And in such cases where diuers parsons haue chatels reals oꝝ personals in cōmon, & by dyuers tytles, if the one of them dye, the other that suryueeth, shal not haue that by the suryuuour. But the executors of hym that dyeth, shal holde and occupy that with him that suryueeth as theyꝝ testatoure dyd oꝝ oughte in his lyfe. &c. foꝝ this that theyꝝ tytles and ryght in this case were seuerall.

Also in this case aforesaid, if two haue estate in common foꝝ terme of yeres, and the one occupie all, and put the other out of his possession and occupacyon, then he that is put out of occupacion, shal haue agaynst that other a wꝛytte de ciectiōe firme, of the halfe agaynst the other.

In the same maner it is, where two holde the warde of landes oꝝ tenementes durynge the nanage of a chylde, yf one put oute the other of his possessyon, he that is out shal haue a wꝛytte de ciectment de garde, of the halfe foꝝ this that those thynges

Tenant in common. Fo. lxxviii.

thynges be chatels reals, and may be ap- **Lpi. 4.**
portioned and seuered, &c. But no such ac-
tion of trespass, that is to say. Quare clau-
sum suum fregit, et herbam suam concu-
cauit et consumpsit, &c. And such lyke ac-
tions the one may not haue agaynst the
other, for this that ech of them may entre
and occupye in common, &c. throughe and
by all the landes and tenementes, which
they holde in common. But if two be pos-
sessed of chatelles parsonelles in comon
by dyuers tytles, as of an horse, or an ore
or a cowe, if the one take it al to hym selfe
out of the possession of the other, the other
hath none other remedy, but to take this
of him, that hath done to him the wronge
for to occupye in common, when he may
see his tyme.

In the same maner it is of chatel reall
that may not be seuered, as in case afoze-
sayd, that two be possessorers of a ward
of the bodye of a chylde within age, yf
one take the chylde oute of the possession
of the other, the other hath no remedye
by any action by the law, but to take the
chylde out of the others possession when
he seeth his tyme, &c.

Also when a man in pledynge wyll
shewe a dede of feoffment made unto hym
or a gyfte in the tayle, or a lease for terme
of lyfe, of anye landes or tenementes,
there

**The forme
of pledynge**

Cap. 5.
Diverse little.

Lyttelton liber. 7.

there he shal say, by force of which feoffement, gift or lease, he was seised. &c. But where a man wyl plede a lease or a graunt made vnto him of chatel real or personal there he shal say, pforce of which he was possessed. More shalbe said of tenantes in comon in the chapter of releases, cōfirmacions, and tenantes per elegit.

¶ Estates vpon condicion. Ca. v.

Estates that mē haue in landes or tenementes be in two maners. That is to say, they haue estate vpon condicion in dede, or vpon condicion in lawe. Vpon condicion in dede, is where a man by dede indēred enfeoffeth an other in fee reseruyng to him and to his heyres pērelye a certayne rente, payable at one feast or at dyuers feastes by yere vpon condicion that if the rent be behynde. &c. þ it shalbe lesull to the feoffour and to his heyres to entre into the landes or tenementes. &c. Or yf the lande be alpyened to an other in fee, to yelne vnto him certayn rē. &c. And if it happe that the rent be behynde by a weke after any day of paymente of it, or by a moneth, or by þ halfe yere, after any day of payment, that then it shalbe lesull to the feoffoure, and to his heyres to entre. &c. In this case yf the rente be not payde at suche a tyme, or befoze suche a tyme

State upon condicion. Fol. lxxx.

Capl. 5.

wordes, if it chaunce. &c. and the wordes next aforesayde. For this worde. If it chaunce. &c. is nought worth w^{ch} suche condicion, but yf it haue these wordes following, that is to say, that it shalbe lesful to the feoffour & to his heyres to entre. &c.

¶ But in these cases aforesaid, it nedeth not by the lawe, to put suche clause, that is to say, that the feoffour and his heires may enter. &c. for this, that they may so do by force of the wordes aforesayde, by cause they conceyue in theym selfe in the lawe a condicion, that is to say, that the feoffour and his heyres may enter, yet it is commonly in al suche cases aforesayde to put suche clauses in the dedes, that is to saye, yf the rent be behynde. &c. that it shalbe lesful to the same feoffoure and his heyres to enter. &c. And this is well done to the entent for to declare and expresse to the laye men, that be not learned in the lawe, the maner and the condicion of the feoffement. &c.

Condicio
simplicita.

¶ As if a man seyled of lande, as of frake tenement, let the same lande to an other by dede endednted for terme of. xx. yeares, yelding vnto him certayn rent, it is bled to put in the dede, that yf the rente be behynde at the daye of payment by a weke, or a moneth. &c. that the it shalbe lawfull to the lessoure, to distrayne. &c. and yet the

Cap. 5.

the lessour may distraine of commō righte
for the rent behind. &c. though such wōr-
des neuer were put in the dede. &c.

¶ Also yf anye feoffement be made to a
man bpon such condicion, that if the feo-
four pay to the feoffee at a certayne day,
&c. xx. li. of money, that then the feoffour
may reentre. &c. In this case the feoffee
is called tenaunte in mortgage, that is as
much to say in french as mortegage, and
in latin mortuum badium, and in Eng-
lyshe a dede pledge.

Signus
mortuum.

¶ And it semethe, that the cause why it
is called mortgage is, for that that it stan-
derh in doubte, if the feoffour wyl pay at
the daye lymyted suche a summe or not,
and if he paye not, then the lande that is
put in pledge bpon condicion for the pay-
ment of the money, is gone from him for-
euer. And so dede to him bpon a condycion
and yf he paye the money, then is the
pledge deade as to the tenaunt. &c.

¶ Also as a man may make a feoffement
in fee in mortgage, so maye a man make a
gyft of the taylor in mortgage, and a lease
for terme of lyfe, or for terme of yeres in
mortgage. And all suche tenants be cal-
led tenants in mortgage, after the state
that they haue in the landes. &c.

¶ Also if a feoffement be made in mor-
gage, bpon condicion, that the feoffour
shall

estate upon condition.

Fol. lxxi.

Cap. 3.

shal pay such a summe at such a daye. &c. as it is betwene them by their dede indented, accorded and limited, though the feoffour dye befoze the day of payment. &c. yet yf the heire of y feoffour pay the same summe of money at the day to the feoffee, oꝝ pꝛoffer hym the money, and the feoffee refuseth to receyue it, then may the heyze enter into the landes. And yet the condition is, if the feoffour pay such a summe at such a day. &c. and not making mencion in the condition of any paymēt to be made by his heyze. But foꝝ this, that the heire hath interest of right in the condition. &c. and y entent was but y the money shulde be payed at the day set. &c. and the feoffee hath no moze damage if he be paid by the heyze, then though he were payed by the father. &c. And foꝝ this cause yf the heyze pay the money, oꝝ tender the money at the day set. &c. and the other refuseth it, he may well enere. But yf a stranger of his owne head, that hath no interest. &c. wold tender and pay the money to the feoffee, at the daye set, then the feoffee is not bounde to receyue it. &c.

¶ And it is to be had in mynde, that in such case, where suche lawfull tender of the money is made, and the feoffee refuseth to receyue it, wherefoze the feoffour oꝝ his heires do stier. &c. the y feoffee hath

I. i.

uq

Capl. 5.

no remedy to haue the money by the com-
mon lawe, for this that it shalbe arrecred
his owne folp, that he refused the money
when laweful proffer was made of it vn-
to hym. &c.

C Also if a feoffement be made in suche
condicio, that if the feoffee pay to the fe-
offour at such a day betwene them limite-
ted. xx. li. that then the feoffee shall haue
the lande to him and to his heyres, and if
he faile to pay the money at the day affe-
sed. &c. that then it shalbe leftfull to the fe-
offoure, or to his heyres to enter. &c. and
after befoze the day set, the feoffee selleth
the lande to an other, and thereof maketh
a feoffement to him, in this case if the se-
conde feoffee wil rende the summe of mo-
ney at the day set to the feoffour, & the fe-
offour refuseth it. &c. the hath the seconde
feoffee estate in the lande clerely without
condicion. And the cause is for that the se-
cond feoffee had interest in the condicion
for saluacion of his reuancie. And in this
case it semeth, that if the first feoffee after
such sale of the lande wyl rende the money
at the day set for the seconde feoffee to the
feoffour, that shalbe good ynough for the
saluacio of the estate of the second feoffee
for this that the first feoffee was priuie
to the condycion, and so the tender of
any of them bothe is good ynoughe. &c.

Also

In what
time tender
shalbe.

estate upon condition. Pol. lxxxii.

Cap. 5.

¶ Also yf the feoffment be made vppon condition, that yf the feoffour pay a certayne summe of money to the feoffee, that the it shalbe lawfull to the feffour and to his heyres to entre. &c. In this case if the feoffour dye before the daye of paymente and the heyre wyll tender to the feoffee the money, such tender is boide, for this that the tyme within whiche the tender ought to be made, is past. For when the condition is, that yf the feoffour pay the money to the feoffee, this is as much to say, that if the feoffour durynge hys life pay the money to the feoffee. &c. And when the feoffour dieth, the tyme of the tender is past. But otherwyle it is, where a day of payment is limited to the feffour and he dieth before the day, then may the heyre tender the money, as it is aforesaid for this that the tyme of the tender was not past by the death of the feoffour.

¶ Also it semeth in suche case, where the feoffour dieth before the day of paymente if the executours of the feoffour tender þ money to the feoffee at the daye of payment, the tender is good ynough. And yf the feoffee refuse this, the heyre of the feoffour may enter. &c. And the cause is for this that the executours represente the person of the testatour. &c.

¶ And note wel, that in al such cases of

L. ii.

condi-

Capf. 5.

Lyttelton liber. 7.

condicion of payment of certayne ſumme in groſſe, touchyng landes oꝝ tenementes, if lawfull tender be ones refuſed, he ſhould ought to pay the money, is thereof aſſoyled and clerely dyſcharged foꝝ euer after.

¶ Allo yf the feoffee in moꝝgage befoꝝe the day of payment that ſhalbe made vnto hym, make his executors and dye and his heyꝛe entreth into the land as he ought: It ſemeth in this caſe, that the feoffour ought to pay the money at the day ſet to the executors, & not to ſ his heyꝛe of the feoffee, foꝝ this that the money at the begynning belonged to the feoffee in manner as a due ty. And ſhalbe vnderſtande that the eſtate was made, bicauſe of boꝝoꝝwpyng of the money of the feoffee, oꝝ bicauſe of an other due ty. And foꝝ this the payment ſhall not be made vnto the heire of the feoffee as it ſemeth. But the woꝝd of the condiciõ may be ſuch that the payment ſhalbe made vnto the heyꝛe, as if the condicion were, that the feoffour paye to the feoffee oꝝ to his heyꝛes ſuch a ſumme of money at ſuche a daye. &c. There after the deathe of the feoffee, yf he dye befoꝝe the daye ſymptred, paymente ought to be made to the heyꝛe at the day ſette.

Where ten
der ſhalbe
made.

¶ Allo in ſuche caſe of a feoffemente in moꝝgage, a queſtyon hath bene demaunded, in what place the feoffour is bound to tender

Estate upon condition. Fol. lxxxiii

Cap. 5.

tender the money to the feoffee at the daye set. &c. And some haue sayde, that vpon the lande so holden in mortgage, for this that the condition is dependant vpon the lande, and they haue said, that yf the feoffour be redye vpon the lande to paye the money to the feoffee at the daye sette, and the feoffee be not at that tyme there, that the feoffour is excluded & dyscharged of payment of the said money, for this þ no defaure was in him. But it semeth to some men, that the lawe is contrary, and that defaut is in him. For he is bound to seeke the feoffee, if he be then at any tyme in any maner of place within the realme of England. As yf a man be bounde in an obligacion of. xx. pounce vpon condition imposed vpon the obligacion, that yf he paye to him to whome the obligacyon is made, at suche a daye. r. li. that then the obligaciō. of. xx. li. shal lose his force, and shalbe holden for nought, in this case it behoueth hym that made the obligacion to seeke hym, to whom the obligacyon is made, yf he be within Englande, and at the daye sette, to tender to him the sayde r. li. &c. And otherwise he forsayteth the sume of. xx. li. cōpysed within the obligacion, & so it semeth in the other case. &c.

¶ And though that some haue sayd, that the condition is dependant vpon the land,

L. lxxxiii.

yet

yet this is not proued, that the lesaunt
of the condicion to be perfourmed, ought
to be made vpon the land. &c. no moze thē
yf the condicion were, that the feoffour
shuld do at such a day. &c. an especial cor-
poral seruyce to the feoffee, not nampnge
the place where the corporall seruyces
shulde be done. In this case the feoffour
ought to do such corporall seruyce at the
day lympt to the feoffee, in what so euer
place in Englande that the feoffee be, yf
he wyl haue aduauntage of the condicion
&c. And so it semethe in that other case.
And it semeth to them that it shalbe moze
properly sayde, that the estate of the land
is dependaunte vpon the condycyon. &c.
which is as much to say, that the condy-
cyon is dependaunte vpon the lande. &c.
but enquyre. &c.

¶ But if a feoffement in fee be made, re-
seruyng to the feoffour an annuel rente,
and for default of payment a reentre. &c. in
this case it nedeth not to the tenar to ten-
der the rent whē it is behynde, but onely
vpon þe lande, for this that this is a rent
goyng out of the land, which is rēt seche
For if the feoffour be ones sealed of this
rente, and after he commeth vpon þe lande
&c. & the rent is denied hē. &c. he may haue
assise of nouell dyssessyn, for thowhe he
may enter because of the condicō broken
yet

State upon condition. Fol lxxxiij.

yet he may chose, that is to saye, to enter
oꝝ to haue an assise. And so is there diuer
sitie, as to the tender of þe rent, that is go
yng out of the land, and of þe tender of an
other summe in grosse, whiche is not go
yng out of any land. And therfore it shal
be sure & a good thing foꝝ the þe wyl make
such scoffment in moꝝgage, to put & let
a special place, where the money shal be
payed. And the moꝝe speciall that it is
put, the better it is foꝝ the scoffour. &c.

Cap. 9.

¶ As yf A. entescoffe B. to haue to hym
and to his heyes upon suche condycyon,
that if A. pay to B. in the feaste of saynt
Mychel tharchangel nexte comminge in
the cathedꝝall church of saynt Paule of
London, within foure houres next befoze
the houre of noone, of the same feast, at þe
hode losse of the noꝝthe doze within the
same church, oꝝ at the tombe of saint Er
henwalde, oꝝ at such a chapell doze, oꝝ at
such a pyllour within the same church,
that then it shalbe lesul to the foꝝsaid A
and to his heyes to entre. &c. In suche
case it nedeth not to seke the scoffce in a
ny other place cōpꝝyled in the indenture
noꝝ to be there moꝝe longer tyme the the
tyme specified in the same indenture, foꝝ
to teder, oꝝ pay the money to þe scoffce. &c.

¶ Also in suche case where the place of
L. iiii. payment

payment is lymyt, the feoffee is not bound to receiue the paymēt in none other place but in the place so lymitted. But yet if he receyue the paymente in any other place, this is good ynough, and as stronge for the feoffoure, as yf the resceyte had be in the same place so lymitted. &c.

Satisfac-
tion.

¶ Also in this case of feoffement in mortgage, yf the feoffoure paye to the feoffee an hōse, or a cuppe of syluer, or a ring of golde, or any other suche thyng in full satisfaccion of the money: and the other this receyueth, this is good ynough, and as stronge as if he had receyued the same of money, though the hōse, or any of the other thynges be not the twentye parte twothe in value of the summe of money for this that the other hath accepted it in playne and full satisfaccion.

¶ Also yf a man encosse an other in fee upon condicion, that he and his heires shall yelde to a stranger and to his heires a yerely rent of twenty shyllinges, and yf he and his heires fayle of paymente of this, that then it shalbe lawfull to the feoffour and to his heires to entre, this is a good condycyon. And yet in this case, though such a yerely rēt be called an annuel rent, this is not properly a rēt, for if it shalbe rent, it ought to be rent seruyce rent charge, or rent secke, & yet it is none of

to them for if the stranger were sealed of this, and after it were to hym denyed, he shal neuer haue assise of this, for this that it issueth not out of any lades. And so the stranger hath no remedye, yf any such yerelpe rente be behynde in this case, but that the feoffour and his heires may entre, &c. & yet yf the feoffour or his heires entre for defaute of payment, then suche rente is gane for euer. And so such rent is but a payement sette to the tenantte and to his heires, that yf he wil not pay this, after the fourme of the indenture, that they shal lese theyr lande by the entre of the feoffoure, or his heires for defaute of payment. And in this case it seemeth, that the feoffee & his heires ought to seeke the stranger and his heires, yf they be in England, bicause that no place is limited wher the paymēt shalbe made and bycause that suche rent is not goyng out of any lande, &c.

And herenote wel two thynges. One is that no rente, that is properly sayde rente, maye be reserued vpon any feoffement, gyfte, or lease, but only to the feoffoure, donour, lessour, or to theyr heires and in no maner it maye be reserued to anye straunge person.

¶ But yf two ioyntenantes make a lease by dede indented, reseruyng to the one

Cap. 3.

Maxime.

of the a certayne yerely rent that is good
ynoughe to hym, to whom the rent is re-
serued, for this that he is pyppye to the
lease and not a stranger thereto. &c.

¶ The second thing is, that no entre or
reentre whiche is al one, may be reserued
nor gyuen to any person, but onely to the
feoffour, or to þe donour, or to the lessour,
or to their heires, & suche entre maye not
be aliyened nor graunted to any person.

¶ For if a man let landes to another for
terme of lyfe by endentur, yeldyng to
the lessour, and to his heires a certain
rent, and for default of payment a reentre
&c. if after the lessour by a dede graunt the
reuercion of the lande to an other in fee,
and the tenaunte for terme of life attours
meth. &c. if the rente after be behynde, the
grauntee of the reuercion may by strayne
for the rent, for this that the rent is inci-
dent to the reuercion, but he may not entre
into the land, and put out the tenant, for
the condicion broke, as the lessour myght
or his heires, if the reuercion had ben con-
tinued in them. &c. and in this case the en-
tre is takē away at al tymes, for þe graunt
of the reuercion may not entre, causa qua
supra. And the lessour nor his heires may
not entre, for yf the lessour maye entre
then he oughte to be in hys fyfte estate.
&c. and that may not be, for this that he
hath

Estate upon condition. **So. lxxvi**
hath aliened from him the reuercyon . &c. **Lpi. 4**

¶ Also if there be lord and ternaunte and the ternaunte make a lease for terme of lyfe, yeldynge to the lessoure and to his heyres suchc yerely rent, and for defaute of payment a reentre. &c. if after þ lessour dye without heyre, durynge the state of the ternaunt for terme of lyfe, by whiche the reuercion cometh to the lord by way of eschete, and after the rēt of the tenant for terme of lyfe is behinde, the lord may distrayne the tenant for the rent behinde but he may not entre into þ land by force of the condycyon. &c. for this that he is not heyre to the lessour. &c.

¶ Also if lande be graunted to a man for terme of two yeres upon a condicid that yf he paye to the grauntoure within the sayde two yeres forty markes, that then he shall haue the lande to hym and to his heyres. &c. In this case yf the grauntee entre by force of the graunt without any luyerye of seylsye, made to hym by the grantour, & after he payeth to þ grantour the .xl. markes within þ .ii. yeres, yet he hath nothyng in the land but for terme of ii. yeres, for this that no luyerye of seylsye was to hi made at the beginning: for if he had franktenemēt & fee, in thj case bicause he hath performed the condicion, then shuld he haue franktenement by force of the
the

the fyft graunt, where no liuerie of seysin was made therof, which shuld be against reason .&c. But yf the grauntoure hadde made liuerie of seysin to the grauntee by force of the graunt, then hath the grauntee the franke tenement, and the fee bpon the same condicion .&c.

¶ Also yf lande be graunted to a man for terme of .v. yeares, bpon condicion, that if he pay to the grantour within the first two yerres forty markes, that the he shal haue fee, o: els but for terme of the fyue yerres, and liuerie of seysin is made to him by force of the graunt. Now he hath fee simple condycionell .&c. And yf in this case the grauntee pay not to the grantour the .xl. markes within the same two first yerres, then immediatly after the same .ii. yerres the fee and the franke tenement is and shalbe adiudged in the grantoure, for this, that the grantour may not after the sayde two yerres incontynent enter bpon the grauntee, for this that the grauntee hath yet tittle by thre yerres, to haue and to occupie the lande by force of the same graunte, And so for this that the condicion of parte of the graunte is broken, and the grauntoure maye not enter, the lawe shall putte the fee and the franke tenement in the grantour. For if the grauntee in this case make waste, then after the

Estate upon condition.

Fol. lxxix.

Capl. 5.

the breakinge of the condycyon .&c. and after the two yeres, the grauntour shall haue his w^ypt of waste, and this is a good p^{ro}ofe, that the reuercyon is in hym .&c. But in suche case of feoffemente upon condition where the feoffoure maye enter lawfully for the condycyon broken .&c. there the feoffour hath the franke tenement before the entre .&c.

¶ Also if a feoffement be made upon such condition, that the feoffee shall gyue the land to the feoffour, and to the wyfe of þe feoffour, to haue and to hold to them and to the heyres of theyr bodyes engendred, and for default of such issue to remaine to the right heyres of the feoffour: In this case if the husband die, the wyfe luyng, before estate in the tayle made to them, then ought the feoffee by the law to make estate to the wyfe as like to the condition and as lyke to the intent of the condition as he may make it, that is to saye, to let the lande to the wyfe for terme of lyfe, without empchement of waste, þe remainder after her deceasse to the heyres engendred of the body of her husbände and hers, and for defaute of suche issue the remainder to the ryght heyres of the husbände. And the cause why the lease shall be made in this case to the woman sole without empchement of waste, is for this, that
the

the condicion is, that the estate shall be made to the husbände, and to hys wyfe in the taylor. And yf suche estate hadde be made in the lyfe of the husbände then after the deathe of her husbände, she hadde hadde estate in the taylor, whiche estate is without empchement of waste, and so it is reason, that yf after a mā may make estate to the entent of the condycyon. &c. that he shall make. &c. though she can not haue estate in the taylor, as she myghe haue hadde, yf the gyfte in the taylor had be made to the husbände, and to her, in the lyfe of her husbände. &c.

¶ Also in this case yf the husbände and the wyfe haue issue and dye, before the gyfte in the taylor made vnto them. &c. the oughte the feoffee to make estate to the issue, and to the heyres of the bodye of the father and the mother ingendred, and for defaute of such issue. &c. the remainder to the ryghte heyres of the housbände. &c.

And the same lawe is in other cases semblable. And if such a feoffee wyll not make such estate when he is reasonably requyred by them, that ought to haue estate by force of the condicion. &c. then maye the feoffoure or his heyres entre. &c.

¶ Also yf a feoffemente be made vpon condycyon that the feoffee shall enfeoffe manye men to haue and to holde to them,

and

Estate bpon condicion. fol. lxxx.

Capl. 30

and to theyr heyres for ever, and all they that ought to have estate, dye before any estate made unto them, they ought the feoffees to make the estate to the heyre of hym that survyveth of theym, to have and to holde to hym, and the heyres of hym that survyveth. &c.

¶ Also yf a feoffement be made bpon condycyon to enfeoffe an other, or to geve in the tayle to an other, yf the feoffee before the perfourmyng of the condycyon, enfeoffe a straunge person, or make a lease for terme of lyfe, then may the feoffour or his heyres entre. &c. for this that he hath dysabled hym selfe to perfourme the condycyon, in so much that he made estate to an other. &c.

¶ In the same maner it is, yf the feoffee before the condycyon perfourmed, lette the same lande to a straunger for terme of yeres. In this case the feoffour or his heyre may entre. &c. for this that the feoffee hath dysabled hym selfe to make estate of the tenementes, accordyng to that that was in the tenementes, when estate thereof was made unto hym, for yf he wyl make estate accordyng to the condicion. &c. then may the lessee for terme of yeres entre, and put out him to whom the estate is made, &c. to occupy this durynge his

his terme. And many haue sayde, that if
such a feoffement be made to a man sole,
vpon the same condicion, and before that
he hath perfourmed the condicion, he tak-
eth a wife, then the feoffour or his heyre
may incontinent enter, for this that yf he
hath made estate, according to the condi-
cion, and after dieth, his wyfe shalbe en-
dowed, and may recouer her dower by a
wrytte of dower. &c. And so by taking of
a wife the tenementes be put in an other
plyte, then they were at the tyme of the
feoffement vpon condicion, for this that
then no suche woman was dowable, nor
shulde be endowed by the lawe. &c.

In the same maner it is, yf the feoffee
charge the land by his dede of ret charge
before the perfourmyng of condicion, or
be bounde in a statute Staple, or statute
marchant, in such cases the feoffour and
his heyres may enter. Causa qua sup^{ra}.
For whosoever cometh to the tenement-
tes by the feoffemente of the feoffee, then
the tenementes must be liable, & be putte
in execution by force of the statute mar-
chant, or of the statute staple, quere, but
when the feoffour or his heyres, for the
cases aforesayde haue entred, so as they
ought, as it semeth. &c. The al such thin-
ges that before such entree myght trouble
or encombe the tenementes so gyuen vpon

Estate vpon condicion. Fol. lxxix.

Cap. 5.

pon condiciō. &c. as touching the same tenementes be utterly defeted by their entree

Also if a man make a dede of scoffement to an other, and in the dede is no condycion. &c. And when the scoffour wyll make to hym lyuerie of sepsyn by force of the same dede, he maketh to hym lyuerie of sepsyn vpon certayn condicions. In this case norhyng of the tenementes passeth by the dede, for this that the condycion is not compzyled in the dede, and the scoffement is of such force, as if no such dede had ben made therof. &c.

Also yf a scoffement be made vpon such condicion, that the scoffee shal not aliene the lande to no man, this condiciō is voyde, for this that when a man is enscoffed in landes or tenementes, he hath power to alpyene them to some person by the lawe, for if suche condicion shulde be good, then the condicion putterh the scoffee out of all the power, that the law gyueth which shulde be agaynst reason, and for this, such condicion is voyde. But yf the condicion be such, that the scoffee shal not alien to one such, namynge his name or to any of his heyres, or the issues of such one. &c. or such other lyke condycions taketh not away al the power of alienacion of the scoffee. &c. then suche condycion is good.

¶ i.

Also

Also if tithes be gyven in the taile by
 such condition, that the tenant in the taile
 nor his heires, &c. shal not alien in fee, nor
 in taile, nor for terme of others lyfe, but
 for theyr owne lyues, &c. such condycyon
 is good. And the cause is for this, that
 whē he maketh such alienacion & dyscon-
 tinuance of the taile, he doth contrary to
 the intent of the donoure, for whiche the
 statute of westminster the seconde. cap. x.
 was made, by whiche estatute the estates
 in the taile be ordeyned, for it is proued
 by the wordes compiled in the same es-
 tatute, that the intent of the maynuge of
 the same estatute was, that þe wyl of the
 donour in such cases shulde be obserued
 And whē tenant in the taile maketh such
 discontinuance, he doeth the contrary to
 that, &c. And also in estates in the taile
 of any reuementes, when the reuercion
 of the fee simple is in the donour, yf that
 he gyue not the remainder ouer, or after
 the gyft graunteth the reuercion to ano-
 ther person, when suche discontinuance
 is made, then the fee simple of the do-
 nour in the reuercion, or of him in the re-
 maynder is dyscontinued, and for this
 that the tenant in the taile shal do no such
 thyng agaynste the profyte of his issues,
 and good ryght, such condycyon is good
 as it is aforesayde, &c.

Estate upon condition. fol. lxxx.

Cap. 5.

Also a man maye geue lande in fee
tyle upon suche condition, that yf the te-
nant in the tyle, or his heyres, aliene in
fee or in tyle, or for terme of an others
lyfe. &c. And also that if al the issues com-
myng of the tenant in the tyle be deade
without issue, that then it shalbe leful to
the donoure, and to his heyres to enter.
&c. And by such way the right of the tyle
maye be saued after such discontinuance
to the issue in the tyle, yf there be any,
so that by way of entre of the donoure, or
of his heyres, the tyle shal not be defe-
ted by suche condycyon. Quere de hoc.
And yet yf the ternaunte in the tyle in
this case, or his heyres make any dys-
continuaunce. &c. Be in the reuercyon or
hys heyres, after that the tyle is deter-
mynd for defaulte of yssue. &c. maye
enter into the lande by force of the same
condycyon, and shal not be dysuyn to
sewe a wytt of ffordone in the re-
uercyon. &c.

Also a man maye not pleade in any
actyon, that estate was made in fee, or in
the tyle, or for terme of lyfe upon condy-
cion, but yf he bouche a recorde thereof,
or shewe a wytyng under scale, pro-
uynge the same condycyon, for it is a co-
mon erudicion and learyng, that a man
by pleadyng shal not defete any estate of

franke

franke

Lytelton liber. 3.

franketennement by force of any such condition, but if he shewe the pzoofe of suche condicion in wꝛytinge .3c. excepte it be in some especial cause, but of chatels reals, as of a lease made for terme of yerres or of grauntes of wardes made by wardens in cheualrie, and of such other. 3c.

A man may plede þ such giftes or grauntes were made byon condycion. 3c. without shewyng of any wꝛyting of condicion. And in the same maner a mā may do of gyftes and grauntes of chatels personals and of contractes personals .3c.

¶ Also though that a man in some actyons may not plede a condycion that toucheth and concerneth franke tenemente, without shewyng of wꝛytinge thereof as it is aforesayd, yet a man may be holpen byon such condycion, by the verdyte of twelue men taken at large, in assise of Mouel disseisin, or in some other actyon, where the Iustices wyl take the verdyte of the twelue Jurours at large.

¶ As put the case that a man seised of certayne lande in fee letteth the same lande to a man for terme of lyfe without dede, byon condicion to yelde to the lessoure a certayne rente, and for default of paymēt a reentree. 3c. by force of which lease, the lessee is seised as of franketennement, and after the rente is behynde, by which

Estate upon condition. Fol. lxxxvi.

Cap. 5.

the lessour entred into the lande, and after the lessee arreinerh an assise of nouel disseysyn of the lande agaynst the lessour the which pledeyth that he doth no wrong ne no disseisin, and upon this the assise is taken: In this case the recognytours, of the assise may say and yelde to the Justices they verdyte at large bpō al the matter, as to say, that the defendant was seised of the lande in his demesne, as of fee, and so seased, let the same land to þe playntife for terme of his lyfe, yeldyng to the lessour suche an annuell rente payable at suche a feaste. &c. and upon such a condition, that yf the rent be behynd at any such feaste, that it ought to be payed, that thē it shalbe lefull to the lessour to entre. &c. by force of which lease the playntife was seased in his demesne as of franchetement, and after that the rente was behynde at suche a feaste in suche a yere. &c. for which the lessour entred into the land upon the possesid of the lessee, & prayeth the discretion of the Justices, yf this be a dysseysyn done to the playntife or not. And that for this that it appeareth to the Justices, that this was no disseisin done unto the playntife. In so much that the entre of the lessour was lawful bpou him the Justices ought to gyue iudgemente, that the playntife shall take nethynge

¶.iii.

by

by his wryt of assyse. And so in suche case the lessour shalbe holpen, & yet was there neuer wryting made of the condicion, for the Jurours may in this case haue knowlege of the condycion that was declared and reherced byon the lease made.

In the same manner it is, of a feoffement in fee, or a gyfte in the tayle byon condicion, though neuer wrytyng were made thereof. &c. And as it is sayde of a verdyte at large in assyse. &c. in the same maner it is in a wrytte of entree founded byon decessyn, and in all other actions where the Justices wyll take the verdyte at large, there where the verdyte at large is made the maner of the entree, entree is put in the issue.

Also in suche case where the enqueste maye saye they? verdyte at large, yf they wyll take bypon them the knowlege of the lawe bypon the matter, they may say they? verdyte generallye, as it is put in they? charge, as in the case afo; sayd they may wll saye that the lessoure dysscaised not the lessee if they wyll. &c.

Also in the same case, yf the case were suche, that after this, that the lessoure had entred for default of paiement. &c. that the lessee hadde entred bypon the lessoure and him dysseised, in this case yf þe lessoure arraynerhe an assyse agaynste the lessee,
the

Estate upon condition. fol. lxxxii.

Cap. 5.

the lessee may barre hym of his assise, for he may pleade agaynst him in barre, how the lessour that is playntiffe made a lease to the defendant for terme of his life, sayunge the reuercyon of the playntiffe, the which is a good plec in barre, in so much that he knowledgeth the reuercyon to be to the playntiffe; and in this case þe playntiffe hath no matter to helpe hym, but the condycyon made upon the lease, and that he may not plede, for that he hath no wrytyng of it, & in so much that he maye not answer to the barre, he shalbe barred. And so in this case ye may se, that a man is dysseised, and yet shal he haue no assise. And further yf the lessee be playntiffe, and the lessour defendaunt, he shal barre the lessee by verdyte of the assise. &c. But in this case where the lessee is defendaunte, yf he wyl not plede the sayd plec in barre but pleade no wrong nor dysseysyn, then the lessour shall recouer by assise. &c. *Causa qua supra.*

Item by cause suche condycyons be mooste commonlye put and specyfyed in dedes indented, comme lyttell thynge shall be sayde here to the my sonne of indentures, and of a dede polle, conteynyng condycyons,

And it is to wyt, that yf the Indenture be by pertite, or tripartite, or quadri-

partite

partite

Lyttelton liber. 7.

partite, al the parties and the Indenture be but one dede in the lawe, and euerye parte of the Indenture is of him selfe of as greate force and effect as al the parties togyther. And the makynge of indentures is in two maners. One is to make them in the thyȝde personne, an other maner is to make them in the fyȝthe person. The makynge in the thyȝde personne is, as in suche fourme.

Chec indenture facta inter R. de. P. ex vna parte, & W. de D. ex altera parte testat qđ predictus R. de P. dedit et concessit, & hac presenti carta indentata confirmavit prefato W. de D. talem terram. sc. habend. et tenend. sub condicione. sc. in cuius rei testimonium partes predictę sigilla sua alternatim apposuerunt. Vel sic: In cuius rei testimonium vna parti huius indenture penes prefatum W. de D. remanent predictus R. de P. sigillum suum apposuit. Alteri parti eiusdem indenture penes R. de P. remanent. Idem W. de D. sigillum suum apposuit. Data. sc. This indenture made betwene. R. of P. of the one part, and. W. of D. of the other, witnesseth that the foresayde. R. of P. hath giuen and graunted, & by this present dede indented, hath confirmed to the foresaid. W. of D. suche lande to haue. sc. vpon the condicion: sc. In wytyes wher

he forme
an enden
re in the
pȝde pson

of

Estate vpon con. Fol. lxxxviii.

of the partes beforesayde interchaung- Epl. 3.
ably, haue put to their seales, or els thus
In witnes wherof to one part of this in-
denture remaynyng with the sayde W. of
D. the fozersayde R. of D. hath put to his
seale, and to the other part of the sayd in-
denture remaynyng with the sayde R. of
D. the laide W. of D. hath put to his scale
gouch, &c.

Suche indenture is called indenture
made in the thyrd personne, for this that
the verbes, &c. be in the thyrd person, and
such forme of indentures is of moze sure
makynge, for this that it is moze com-
monly vsed. The makynge of indentures
in the fyrst person is in suche forme.

Omnibus christifidelibus ad quos pre-
sentes littere indentate peruenerint A. de
B. salutem in domino sempiternam. Scia-
tis me dedisse concessisse, et hac presenti
carta mea indentata confirmasse C. de D.
talem terram, &c. Vel sic, Sciant presentes
et futuri, quod ergo. A. de B. dedi concessi
et hac presenti carta mea indentata con-
firmaui C. de D. talem terram, &c. haberi
dum et tunc sub condicione sequenti, &c.
In cuius rei testimonium tam ego predicti
A. de B. quam predicti C. de D. his indenturis
sigilla nostra alterum apposuimus. Vel sic:
In cuius rei testimonium ego prius A. bni
parti, huius indenture sigillum meum appo-
suimus.

Cap. 5.

An indenture in the
first person

Lyttelton liber. 7.

Int: alteri vero parti eiusde indenture p^{re}dictus. C. de D. sigillis suis apposuit. &c.

To all true Chyſten people, to whom this preſent wytyng endented ſhal come. A. of B. gretynge in our lord euerlaſtynge knowe ye me to haue giuen and graunted and by this my preſent dede indentured, to haue conſyrmmed to C. of D. ſuch land. &c. Or els thus. Knowe al men þe preſent, and the that be to come, that J. A. of B. haue gyuen and graunted, and by this my preſente dede indentured, haue conſyrmmed to C. of D. ſuch lande. &c. to haue. &c. bypon condycyon folowynge. In wytnelle whereof, as well J the ſayde A. of B. as the ſozelayde C. of D. to theſe endetures interchaungeably haue put to our ſeales or elles thus. In wytnelle wherof J the ſozelayd A. of B. to one part of this indenture haue put to my ſeale, and to þ other parte of the ſame endenture the ſozelayde C. of D. hath put to his ſeale. &c.

And it ſemeth that ſuch an endenture made in the ſy^zte perſon, is as good in the lawe as the endenture made in the thy^zde perſon, when borhe partyes haue thereto put theyr ſeales, ſo: if in þ endeture made in the thy^zde perſone, or in the ſy^zte perſon, yf mencyon be made, that the grauntour hath ſette his ſeale onelye, and the grauntee not then in the endenture onelye the

Estate vpon condiciō. Pol. lxxxiii.

the dede of the grauntour. But where mē^{er} Cpl. 31
vpon is made, that the grauntee hath set
his scale to the endenture .&c. then is the
endenture as wel the dede of the grauntee,
as the dede of the grauntour. And thus it
is the dede of bothe, and also euery parte
of the endenture is the dede of both partes
in suche case. &c.

¶ Also yf estate be made by endenture
to a manne for terme of hy^s lyfe, the re-
maynder to an other in fee vpon certaine
condycyon .&c. And yf the tenaunte for
terme of lyfe hath set his scale to the part
of the endenture, and after dyeth, and he
in the remaynder. &c. entreteth in the lande
by force of his remaynder. In this case
he is holden to perfourme all the condici-
ons compysed within the indenture, as
the tenaunt for terme of lyfe ought to do
in his lyfe, and yet he in the remaynder
neuer sealed any parcell of the endenture
but the cause is, that in so muche that he
entreteth and agreeth to haue the lande by
force of the endenture, he is holden to per-
fourme the condycyon within the enden-
ture, yf he wyl haue the lande. &c.

¶ Also if a feoffment be made by dede
poll vpon condicion. &c. and for this that
the condicion is not perfourmed, the feof-
four entreteth and hath the possessiō of the
dede poll, if the feoffee bring an action of
that

Lytelton liber. 3.

Cap. 3.

**The pleas
dyng of a
condycion.
by a dede
poll.**

that entre agaynst the feoffoure, it hath
ben questioned, if the feoffoure may plede
the condicio. &c. by the dede polle agaynst
the feoffee. And some haue sayde nay, in
so muche that it semeth unto them, that
a dede poll, and the proprietie of the same
dede appertayneth to hym to whom the
dede is made, and not to hym that made
the dede. And in so much that such a dede
appertayneth not to þe feoffoure, it semeth
to them þe he may not plede this dede. &c.
And other haue sayde the contrarye, and
haue shewed dyuers causes. One is if the
case be suche, that in the actyon betwene
them, yf the feoffee pleade the same dede
and shewe this to the court. In this case
in so much that the dede is in the court, þe
feoffoure maye shewe to the courte, howe
in the dede by dyuers condycions to be
perfourmed of the part of the feoffee and
for this that they be not perfourmed be
entred. &c. and thereto he shalbe receyued,
by the same reason when the feoffoure
hath the dede in hande, and sheweth
it to the courte, he shal be well receyued
to pleade of this. &c. And namelye when
the feoffoure is pryue to the dede, for he
oughte to be pryue to the dede; when he
made the dede.

¶ Also yf two men make oꝝ do a trespassse
to an other, the which releaseth to one
of

Estate upon condition. Fol. lxxv.

Capi. 5.

of them by his dede, all actions personelles. .sc. Notwithstandinge he suerhe an action of trespass agaynst the other, then the defendaunte may wel shewe, that the trespass was done by hym and an other, his felowe, and that the playnryfe by the dede that he shewed forth released to his felowe all actions personelles, and yet suche dede appertaynerhe to his felowe, and not to hym, but for this that he may haue advantage by the dede, yf he maye shewe the dede to the courte, he may well pleade therfore. By the same reason, in the other case, when the feoffoure ought to haue advantage by the condition compyled within the dede poll.

Also yf the feoff. e gaue oꝝ graunted the dede poll to the feoffoure, such graunt shalbe good, and then the dede and the propertie of the dede appertayneth to the feoffoure. And when the feoffoure hathe the dede in hande, and pleadethe it to the courte, it shall be rather taken, that he came to the dede by a lawfull meane, then by a torcious meane, and so it semethe, that they maye well pleade suche a dede polle, that comprehendeth condycion. .sc. If he haue the dede in hande. .sc. *Adco semper quere de dubiis, quia per rationes peruenitur ad legitimam rationem.*

Estates that men haue upon condition in

Lytelton liber .3.

Cap. 5.
Estates by
upon a con-
dition in
lawe.

in the lawe be such, that haue a condicion
by the law annexed to them, though it be
not specified in wytyng, as yf a man
grant by his dede to an other, the offyce
of a parson of a parke, to haue and to
occupie the same offyce for terme of his
lyfe, the estate that he hath in the offyce
is upon condicion in the lawe, that is to
say, that the parke wel & truly shall kepe
the parke, and do this that to his offyce
appertayneth to do, or otherwyle that it
shalbe letul to the grantour & his heyres
to put him out, and to graunte that to an
other yf he wyl. &c. and suche condicion
as is vnderstande by the lawe to be an-
nexed to any thynge, is as stronge, as if
the condicion were set or put in wyting.

¶ In the same maner it is of grautes of
offices of stewardes, constables, bedyls,
bayliffes, and other officers, but yf suche
offyce be grauted to a man to haue and to
occupie by hym, or by his deputie, as he
ought by the law, then if the offyce be oc-
cupied by him or his deputie, as it oughte
by the lawe to be occupied, this suffyseth
for him, or els the grantour or his heyres
may put him out, as it is aforesayde.

¶ Also estates of landes or reuenues
may be upon condicion in the law though
that upon the estate made there was no
reuerfall made of the condycions: as

put

Estate vpon condicion. Fo. lxxxvi

L. 3. ap.

putte the case that a lease be made to the husbande and his wyfe to haue & to holde to the, during the couerture betwene the in this case they haue estate for terme of they: two liues, vpon condicion in lawe that is to say, if one of them die, or yf de- uo:ce be made betwene them, that then it shalbe lesul to the lessoure & his heyres, to entre. &c. & that they haue estate for terme of they: two liues, it is proued thus, eu- ry man that hath estate or franctenemēt in any lādes or tenemētes, cyther he hath estate in fee, or in fee taylor, or for terme of lyfe, or for terme of his owne lyfe, or for terme of an others lyfe, & by suche lease, they haue franctenemēt. But they haue not by p̄ graunt fee, nor for taylor, nor for terme of an others life. Ergo they haue estate for: tme of their. ii. liues, but this is bpō condicion in p̄ law in forme aforesayd And in thj case if they make wast, p̄ lessor shal haue against the a writ of wast, sup- posing by his writ. Quod tenet ad termi- nū vite. &c. But in his p̄ce he shal declare how & in what maner p̄ lease was made. ¶ In the same manner it is if an abbot make a lease to a man to haue and to hold to him duringe the time that the lessoure is abbot. In this case p̄ lessee hath estate for terme of the life of the same abbotte but this is bp̄ on condycion in lawe, that

**A generall
writte and
a speciall
declaration**

that is to saye, that yf the abbot resygne
or be deposed, that it shalbe lesfull to hys
successours to entre. &c.

¶ Also a man maye see in the booke of as-
sise. An. 38. E. 3 a plee in assise in this
forme that ensueth. Assise of nouelldys
seyn was some tyme brought agaynst
one A. that pleaded to the assise, and was
founde by verdyt, that the ancestor of the
playntiffe deuyled the tenementes to be
solde by his executour, to make distrybu-
cyon of the money for hys soule, and it
was founde þ incontyner after the death
of the testatoure, a man tendered to hym
a certaine sum of money for the tenement-
tes, but not to the value, & that the execu-
tour after helde þ tenementes in his owne
hande by two yere, to the entente to haue
solde the tenementes the more deerer to
some other, and it was found that he had
all thys whyle after taken the profyttes
of the tenementes to his owne vse, with-
out any thyng doyng for the soule of the
deade. Whomþaye Justyce sayde. The
executoure in suche case is holden by the
lawe, to make the sale as sone as he maye
after the deathe of the testatour, and it is
found that he refused to make the sale, &
so the defaute was in hym, & also by force
of the deuyse, he was holde to haue put al
the profyttes of the said tenementes to the
dedes

Estate vpon condicion. Fo. lxxxviii.
deades b. c. 3. It is founde that he hath ra- Cap. 6.
ken them to his own. ble and so an other
defaut is in hym, wherfoze it was adiud
ged that the plaintife shulde recouer.

And thus it appereth by the sayde iuge
ment, that by force of the said deuise, that
the executoure had none estate nor power
in the tenementes but vppon condycion
in the lawe. And many other cases there
be of estates vpon condicion in the lawe
in suche cases it nedeth not to haue we-
wed any dede, reherlyng the condycion.
It. for that the lawe in it selfe purpo-
terh the condicion. It. *Ex paucis dictis
intendere plurima possis.*

More shall be sayde of condycions in
the next chapter, in the chapter of relea-
ces, and also in the chapter of dysconty-
nuaunce.

Dyscentes. Cap. vi.

Dyscentes that take away entres be
in two maners, þ is to saye, where
the discent is in fee, or in fee tayle
Discentes in fee, that take away entres
be, where a man seased of certayne lades
or tenementes is by an nother dysseised,
and the dysseysour hath issue, and dyeth of
such estate seased, nowe the tenementes
descende to the issue of the dysseysoure by
course of the lawe as heye vnto hym.

And for this that the lawe putterh the
landes

Hyttelton liber. 7.

Capl. 6.

landes oꝝ reuementes vpon the issue, and the issue com.uerſe to the reuementes by couſe of the lawe, and not by his owne dede, the entere of the dyſſeiſin is taken away, and is therof put to ſue his wyꝛte of entere vpon diſſeiſin agaynſte the heyꝛe of the diſſeiſour, to recouer the lande.

A diſſeiſin
in the tye.

¶ Diſſeiſin in the taile that take away entres be, where a man is diſſeiſed, and the diſſeiſour gyueth the ſame lande to another in the taile, and the tenaunt in the taile hath iſſue and dyeth ſeaſed of ſuche eſtate, and the iſſue entrethe, in this caſe the entere of the dyſſeiſin is taken away and he is put to ſue agaynſte the iſſue of the tenaunt in the taile, a wyꝛte of entere vpon diſſeiſin. &c.

¶ And note wel, þ in ſuch dyſſeiſin that take away entres, it behoueth that a mā dye ſeaſed in his demefne as in fee, oꝝ in his demefne, as in fee taile, foꝝ dieng ſeiſed foꝝ terme of lyfe, oꝝ foꝝ terme of another's life, ſhal neuer take away entere. &c.

¶ Alſo a dyſſeiſin of reuerſion oꝝ of remainder ſhal neuer take away entere. As if a man diſſeiſe me, and the diſſeiſin letteth the reuementes to a man foꝝ terme of lyfe, the remainder in fee, yf he in the remainder haue iſſue and dye, and after the tenant foꝝ terme of lyfe dyeth, the plea of hym in the remainder entreth: In

shys

this case the entree of þe disseisee is not taken away, so þe in such cases, that take away entrees by force of descentes: it beþougerth that he that dyeth sealed haue fee and fraanchement, oꝛ fee taylor & franche tenement at the tyme of his dyeng, oꝛ els suche descent takerh not away entree.

¶ Also as it is said of descentes that dissende to the issue of them that dye sealed. &c. the same law is, where they haue non issue, but the tenementes descende to the brother, syster, uncle, oꝛ some other cosyn of hym that dyeth sealed. &c.

¶ Also yf there be lord & tenant, and the tenant be disseised, and the disseisour alieneth to an other in fee, and the alpyene dieth without heyre, and þe lord entereth as in his escheq. In this case the disseisee maye enter vpon the lord, for this that the lord cometh not to the lande by descent, but by way of escheq. D. 9. D. 7.

¶ Also yf a man sealed of certayne lande in fee, oꝛ in fee taylor vpon condicion, to yelde certayne rent, oꝛ vpon other condycion, though that such ternaunt sealed in fee, oꝛ in fee taylor dye sealed, yet if the condicion be broken in theyꝛ lyues, oꝛ after their deceasse. &c. this takerh not away the entree of the feoffour, noꝛ of the donoure oꝛ of theyꝛ heyres, for this that the ternaunt is charged with the condycion, and

Lytelton liber .3.

Capl .6.

the estate of the tenancy is conditional, to
whose habes so euer the tenancy cometh.

¶ Also if such a tenant upon condition be
disseised, & the disseisor dye thereof sep-
sed, and the lande descenderh to the heire
of the disseisor, now the entre of the te-
nant upon condition that was disseised, is
taken away, but yet if þ condition be bro-
ken. &c. then may the feoffee or the do-
nour, þ made the estate upon condition, or
they heires enter. &c. causa qua supra.

¶ Also if a disseisor die seised, and his
heires enter. &c. the which endoweth the
wyfe of the disseisor of the thyrde parte
of the tenementes, in this case as to the
thyrde part that is assigned to the wyfe in
dower, incontynente after that the wyfe
entreteth, & hath the possession of the same
thyrde parte, the disseisor may lawfully
enter by the possession of the wyfe in the
same thyrde part. And the cause is for this
that when the wyfe hath her dower, she
shalbe adiudged in possession immediately
by her husband, and not by the heire, and
so as to the francktenement of the same
thyrde parte, the descent is deferred.

¶ And thus ye maye se, that befoze the
dowement the disseisor myght not en-
ter in any parte. &c. and after the dowe-
ment, he maye enter upon the wyfe
and yet he may not entre upon the other

two

two parties, that the heyze of the dyscences
sourer hath by dyscent. &c.

¶ Also yf a woman be sealed of landes
in fee, wherof I haue ryght & title to en-
tre, yf the woman take an husbunde and
haue issue betwene the, and after the wife
dyeth sealed, and after that the husband
dyeth, & the issue entreth. &c. In this case
I may entre upon the possession of the is-
sue, for this that the issue cometh not
to the tenementes immediately by dyscent
after the death of his mother, but by the
death of his father. &c.

Contra B.
9. d. 7. d.
37. d.

¶ Also yf a dyscensour enfeoffe his fa-
ther in fee, and the father entreth and
dyeth of such estate sealed, by whych the
tenementes descende to the dyscensour,
as to the son and heyze. &c. In this case
the dyscensite may well entre upon the dis-
censour, notwithstanding the dyscent
for this that as to the dyscensyn the dys-
censour shalbe adiudged in but as dyscens-
sour, notwithstanding the dyscent quia
participes criminis. &c.

¶ Also yf a man sealed of certayn landes
in fee, hath issue two sonnes, and dyeth
sealed, and the yonger sonne entreth by
abatemente in the lande, the which hath
issue, and of this dyeth sealed, and the
tenementes dyscende to the issue, and the
issue entreth into the lande, in this case

This case
is suged. 4.
of Ed. 4. in
the. xv. lefe.

Hyttelton liber .3.

cap. 2.

the elder son or his heire may enter by the law upon the issue of the younger son, notwithstanding the descent, for this that when the younger son abated in the land, after the death of his father before any entry of the elder made, there the law entendeth, that he entered in the land & claiming it as heire unto his father, and for this that the elder brother claimeth by the same title, & is to say, as heire unto his father, he & his heires may enter upon the issue of the younger brother, notwithstanding the descent. &c. for this & they claime by one selfe title. And in the same manner it shalbe, if there be many descentes from one issue to an other issue of the younger son. &c. But in such case if the father were seised of certayne landes in fee, and hath issue two sonnes and dieth, and the elder son entereth and is seised. &c. And after the younger brother disseiseth him, by which the disseisin he is seised in fee, & hath issue, and of such estate dieth seised, that the elder brother may not enter, but is putte to his writ of entry upon disseisin for to recouer the land. And the cause is for this that the younger brother commeth to the tenementes by a wrong disseisin made unto his elder brother. And for that wrong the law may not take it, that he claime as heire to his father, no more then a stranger.

Any person, that had disseised the el-
der brother, that neuer had any title. &c.
¶ And so may ye se the diuersitie, where
the yonger brother entreteth after the death
of his father before any entre made by the
elder brother in such case. &c. and where
the elder brother entreteth after the death
of his father, and after is disseised by the
yonger brother. &c. In þe same maner it is
if a man seised of certain land in fee, hath
issue two daughters, and dyeth, and þe el-
der daughter entreteth in þe land, claiminge
all the land to her, and thereof only taketh
the profits, and hath issue, and dieth se-
ised, by which her issue entreteth, whiche is-
sue hath issue, & dieth seised, & the second
issue entreteth. Et sic blera, yet the yonger
daughter or her issue, as to the halfe, may
enter vpon euery issue of the elder daugh-
ter notwithstanding such descent, for this þe
they clayme by one selfe title. &c. But in
such case if both two sisters come into þe
land to enter, after þe death of thei father
and thereof were seised, and after þe elder
sister thereof disseised the yonger sister of
that that to her belongeth, and thereof is
seised in fee, and hath issue, and of suche
estate dyeth seised, by whiche the reue-
nues descend to the issue of the elder
sister, then the yonger sister nor her

R. iii.

beres

Lyttelton lyber. f.

capl. 6.

heyrer may entre. &c. *Causa qua supra.*
Also yf a man sealed of certayne lande
in fee, hath issue two sonnes, and the el-
der bzother is bastarde, and the yonger
bzother mulier, and the father dyeth, and
the bastarde entreth and claimech as heyrer
vnto his father, and occupyeth the lande
all his life, without any entre made vpon
him by the mulier, and the bastarde hath
issue, and dyeth of such estate sealed in fee
and the lande descendeth to his issue, and
his issue entreth. &c. in this case þ mulier
is without remedy, for he may not enter.
nor haue any act to recover the lade
for this that there is an auncient lawe in
such case bled. &c. But it hath bene an op-
inion of some men, that this shal be un-
derstande where the father hath a son a
bastarde by a woman, and after he wed-
deth the same woman, & after þ spousale
he hath issue by the same woman a son or
a daughter mulier, & after þ father dyeth
&c. If such a bastarde entre. &c. & hath is-
sue, and dyeth sealed. &c. the shal the issue
of such a bastarde haue the land clerely to
him as it is aforesaid. &c. And not any o-
ther bastarde borne of the mother þ was
not espoused to his father. And this seemeth
a good and reasonable opinion. For such a
bastarde borne before the espousals is
fynnyled betwene his father and his mo-
ther

ther, by the lawe of holy church, is mul-
 lyer, thoughe that by the lawe of the lade
 he is a bastarde bo:ne, & so he hath colour
 of entre as heye to his father, for this
 he is by one lawe mulyer, that is to saye
 by the lawe of holy church. But other-
 wise it is of a bastarde, that hath no ma-
 ner of colour to entre as heire in so much
 that he may not by no lawe be said mulier
 of. for such a bastarde is said. *Quasi nul-
 lus filius*. But in y case aforesaid, where
 the bastarde entreth after the deyth of his
 father, and the mulyer putteth hym out
 and after the bastarde disseiseth y mulyer
 and hath issue, and dyeth sealed, and the
 issue entreth, then the mulier may haue a
 writ of entre byon disseisin agaynst the is-
 sue of the bastarde, & recouer the land. &c.
 And so may ye se y diuersitie, where such
 a bastarde contynucthe his possession all
 his lyfe wout any interruption, & where
 the mulyer entreth and enterreth the
 possession of such a bastarde. &c.

¶ Also yf a chyld within age haue ty-
 tle and cause to entre into any landes or
 tenementes bypon an other, that is se-
 led in fee, or in fee taylor of the same lades
 or tenementes, yf suche a man that is so
 sealed, dye of suche estate sealed, and the
 landes descende to his issue during y time
 that the chyld is within age, such dyscent

R. b.

shall

Shall not toll the entree of the chylde but
that he may entree by the issue that is in
by descent. &c. for this þ no laches shalbe
adjudged in a child wⁱⁿ age i such case. &c.
¶ Also yf the husbände and his wyfe
as in ryght of the wyfe haue tittle & right
to entree in the tenementes, that an other
hath in fee or in fee taylor, & such a tenant
breth seyled. &c. In suche case the entree
of the husbände is taken awaye vpon the
heire that is in by descent. But if the hus-
bände dye, then the wyfe may well enter
vpon the issue whiche is in by descent,
for this that þ laches of the husband shal
not turne the wife and her heyres to pre-
iudice noz damage, in such case, but that
the wyfe and her heyres maye well entree
vpon such heyre, which is in possession of
the tenauncy by descent. And this shalbe
vnderstande of a tittle of entree, whyche
falleth durynge the couerture.

¶ But the court holde. 19. 9. 7. where
such a tittle is gyuen to a woman soole
which after taketh a husband, which en-
treeb not but suffereth a descent. &c. there
it is otherwylse: for it shalbe sayd, it was
the womans folp, to take such a husband
that entred not in tyme. &c.

¶ Also yf a manne that is not of hool
mind, that is to say in latine, Qui non est
sopos mētis, hath cause to entree into any
succe

Dyscentee.**Pol. C. ii.****Lpl. 4**

suche tenementes, yf suche dyscent be su-
pra, he had in his lyfe duryng the tyme
that he was out of his mynde, and after
dyceth, his heyre maye well entre vppon
hym that is in by descente.

And in this case ye may se, that the heyre
may entre, and yet his ancestor that had
the same tytle maye not entre, for he that
was out of his mynd, at the tyme of such
dyscent, yf he wol entre after such a dys-
cent, yf action vppon this be shewed a-
gaynst hym, he hath nothyng for hym
to pleade, or to helpe him, but to say, that
he was oute of his mynde at the tyme of
such dyscent. &c. And he shall not be recey-
ued to saye this, for this that no man of
full age shalbe receiued in any plec by the
lawe to falsifie, or dysable his owne pers-
on. But the heyre may wel dysable y per-
son of his ancestor, for his ewne aduan-
tage in suche case, for this that no laches
may be adiudged by the lawe in hym that
hath no dyscretion in such case.

And if such a man out of his minde make
a feoffment. &c. he may not entre, ne haue
a wyrt called *Dum non fuit compos men-
tis*. &c. *causa qua supra*. But aft his deth
his heyre may wel enter or haue the same
wyrtte *Dum non fuit compos mentis*, at
his election. The same lawe is, where a
chylde withyn age makethe a feoffement
and

C. ii. C. 4

Litttelton liber. 3.

Cap. 6.

and dieth, his heyre may entre, oꝝ haue a
wypur of Dumfuit infra statem. &c.

C. 12. C. 3.

C Also if I be disseised by a chyldc with-
in age, that alyeneth to an other in fee
and the alyene dyeth seyled, and the tene-
mentres descend to his heyre, the chylde be-
yngc within age, mine entre is taken a-
way. But yf the chylde within age entre
bpon the heire that is in by descent, as he
wel may, foꝝ this that þ same discēt was
during his nonage, the I may wel enter
bpo the disseisour, foꝝ this þ by his entre
he hath defeted and adnullled the discent.

C And in the same maner it is, where I
am seised, and the disseisour maketh a fe-
offementre in fee bpon condicion. &c. and
the feoffee dieth of such estare seised. &c. I
may not enter bpon þ heyre of the feoffee.
But if the condicio be broken, so that by
such cause þ feoffour entreth bpo þ heyre
now may I wel enter, foꝝ this that whē
the feoffour oꝝ his heyres entered foꝝ the
condicion broke þ discēt is utterly defeted.

C Also if I be disseised, & the dysseisour
hath issue, and entreth into relygion, by
foꝝce wherof the landes descended to his
issue, in this case I may well enter bpon
the yssue, and yet there was a dyscent.
But foꝝ this that suche discent cometh
to the yssue by the fathers dede, that is
to saye, foꝝ this that he entered into rely-
gion

gyn. &c. and the dyscense commeth not to hym by the acte of god, that is to saye, by deathe. &c. myne entre is coungeable and lawfull: for if I arrayne a title of newell dyscensyn agaynste my dyscensoure, though that he after entreth into respyon, this shall not abate my wyrtte. But my wyrtte this notwithstandinge, shall abyde in his force and strengthe, and my recouerye agaynste hym shall be good. And by the same reason, the dyscense that came to his issue by his owne dede maye not put me frome myne entre, &c.

¶ Also yf I lette vnto a man certayne lande for terme of twentye yeres, and another dyscenseth me, and putteth oute the termoure, and dyeth seple, and the tenementes descende to his heyre, I maye not entre, and yet the lessee for terme of yeres may well enter, for this that by his entre he putteth not out the heyre that is in by dyscense fro the franchise-mentes that vnto hym descended. But onelye to haue the tenementes for terme of yeres, the whiche is no expulsiunge of the franchise-mentes of the heyre that is in by dyscense. But otherwyle it is where my ternaunte for terme of lyfe is dyscensyd. &c. Causa quarta.

¶ Also it is sayde, that yf a man seised of tenementes in fee by occupayon

Adversus
litte.

in

in tyme of warre, & dieth therof sealed in tyme of warre & the tenementes disceñde to his heyze, such disceñt putterth no man out of his entre. And this a man maye se in a plec on a wȳt de Apel. An. 7. E. 2.

¶ Also no dyenge sealed, where all the tenementes cometh to an other by succession, shall take away the entre of any person, &c. As of prelates, abbotes, priours, deanes, or persones of churches, or other body politike. &c. though that there were twenty dyenges sealed, and twenty successions, thus putterth no man from his entre, for this is not properly called disceñt. &c. More shalbe sayde of disceñtes in the next chapter.

Contynual clayme. Cap. vii.

Contynuall clayme is where a man hath ryghte and tyle to entre into any landes or tenementes, wherof an other is sealed in fee, or in fee taylor, if he that hath tyle to entre make contynual clayme to the landes and tenementes before the dyenge sealed of hym that holdeth the tenementes, then thoughe suche a tenant dye therof seyled, and the landes and tenementes dysceñde to his heyze yet maye he that hath made suche clayme, or his heyzes entre into the landes and tenementes so dysceñded, by cause of the contynual

Contynuall clayme. Pol. C. lxxx.

Cap. 20.

Contynuall clayme made, notwithstandinge
such dyscense.

¶ As in case a man be dysseised, and the
dysseisee makethe contynuall clayme to
the tenementes in the lyfe of the dysseis-
sour, though the dysseisour dye sealed
in fee, and the lande descendeth vnto his
heire, yet maye the dysseisee enter vpon
the possession of the heire, notwithstandinge
dyscense such dyscense.

¶ In the same maner it is, yf tennant
for terme of lyfe alene in fee, he in the
reuercion or he in the remaynder maye
enter vpon the alene. And yf suche
alene dye leased of suche estate, with-
oute contynuall clayme made to the te-
nementes, before the dyscense sealed of
the alene, and the tenementes by cause
of the dyscense sealed of the alene descend
vnto his heire: Then maye not he in the
reuercion, nor he in the remaynder entre.
But yf he in the reuercion, or he in the re-
mainder that hath cause to enter vpon the
alene, made contynuall clayme to the
tenementes, before the dyscense sealed of
the alene, then such a man may enter
after the death of the alene, as wel as
he myght in his lyfe. &c.

¶ Also if landes be let vnto a man for terme
of his life, yf remainder vnto an other for
terme of life, yf remainder to y the third man

in

in fee, if the remant for terme of lyfe alien
in fee, and he in the remaynder for terme
of life maacth continuall claime vnto the
land befoze the dyeng leased of the alie-
nee, and after the alienee dyeth leased. &c.
and after he in the remaynder for terme
of lyfe, dieth befoze any entre made by hi
In this case he in the remaynder in fee,
maye entre vpon the heyre of the alienee,
bycause of continual claime made by him
that had the remaynder for terme of hys
life, for this that such ryght that he hath
to enter, shall go and remayne to hym in
the remaynder after hym, in so muche
that he in the remainder in fee, maye not
enter vpon the alienee in fee, during the
lyfe of hym in the remainder for terme of
lyfe, and bicause þ he might not the make
continual claime, for none may make co-
tinual claim but whē he hath rytle to en-
ter. &c. But it is to se to þ my childe, how
and in what maner such continual claim
shalbe made and this to learne well, the
thynges there be to be vnde stande.

In what

waye claym
ought to be
made,

The first thing is, if a man haue cause
to enter in any landes or tenementes in
diuers towncs within one hyze, if he en-
ter in any parcel of the landes or tenemē-
tes, that be in one towne, in the name of
all the lādes or tenementes, in to which he
hath righte to enter, with all the rest

In the same wyze, by suche entreve hath
 as good possession and seisin of such lan-
 des oꝝ tenementes, whercof he hath ryte
 to enter, as yf he had entred in dede into
 euery parcel, and this seemeth great rea-
 son. For yf a man wyl enfeoffe an other
 without dede, of certayne landes oꝝ tene-
 mentes that he hath in manye towne-
 within one wyze, and he wyl deliuer sei-
 sin to the feoffee of parcell of the tene-
 mentes within one towne in the name of all
 the landes oꝝ tenementes that he hath in
 the same towne, and in all the other tow-
 nes. &c. all the sayde tenementes. &c. shal
 passe by force of the sayd lyuere of seysyn
 to him, to whom such feoffement in such
 maner is made: And yet he to whom such
 lyuery of seysyn is made, hath no ryght
 to al the landes and tenementes in al the
 towne, but bycause of the lyuery of seysyn
 made of parcell of the landes oꝝ tene-
 mentes in one towne. A mulro fortoꝝ.
 it semeth good reason, that when a man
 hath ryte to enter into landes oꝝ tene-
 mentes in dyuers towne, within one wyze,
 before ani entre by him made, that by the
 entre of hym made in parcell of the tene-
 mentes in one towne, in the name of all
 the landes and tenementes, to the which
 he hath ryte to enter within þe same wyze
 this is a seisin of al in hym, and by suche

Capl. 7.

entre he hath possession and seisin in dede as if he had entred into euery parcell. &c.

¶ The seconde thyng is to vnderstand that if a man haue tytlic to entre into any landes or tenementes, if he dare not entre in the same landes or tenementes, nor in any parcell thereof, for doubte of beating or for doute of maymyng, or for doubte of death, yf he go and approche as nyghe the tenementes as he dare for suche doute as is aforesayd, and clayme by worde the tenementes to be his, incontynent by such clayme he hath a possession and seisin in the tenementes, as well as yf he had entred in dede, though he hadde neuer possession or seisin of the same landes or tenementes before the sayde clayme. And that the lawe is such, it is wel proued by a plee of an assise in the boke of assise. An. 38. Edward. 3. the renour of which ensueth in this fourme.

¶ In the country of Dorset before y Justice, it was founde by verdyte of assise that the plaintife, which had right by descent of heritage, to haue the tenementes, put in plaint at the tyme of y death of his ancestor, which was dwelling in y towne wher the tenementes were, & by wordes claimed the tenementes among his neighbours, but for doute of death, he durst not approche vnto the tenementes, but bringeth

Contynual clayme. Fo .L.vi.

Cap. 7.

geth assyie, and vpon the matter found, it
was awarded, that he shulde recouer. &c.
¶ The third thing is to vnderstand with
in what tyme the clayme, that is said co-
tinuall clayme shall serue and helpe hym
that makerh the clayme and his heyres.
And as to this it is to wit, þ he that hath
title to enter whē he wil make his claime
if he dare appzoche vnto the land, than it
behoueth him to go vnto the lande, oꝛ to
parcell of it, and make his clayme, and if
he dare not appzoche vnto the lande, foꝛ
dout oꝛ dyede of bearing, maiming, oꝛ deeth
then it behoueth him to go & to appzoche
as nyce as he dare toward the land, oꝛ pec-
cel therof & make his claime. And yf hys
aduersarie that occupieth the land dyeth
sealed in tee, oꝛ in fee tayle, within a yere
and a day aft such claime made, by which
the tenementes descende vnto his son as
heyre vnto him, yet may he that made the
clayme enter vppon the possession of the
heyre. &c. But in this case after the yere
and the day that suche clayme was made
if none other claime be made, if the father
then dye sealed, þ moꝛowe after the yere
and the day, oꝛ at an other daye after. &c.
then may not he þ made the claime enter.
And therfoꝛe vf he that made the clayme
wil be sure alway, that his entre shal not
be taken away by such discēt, it behoueth

D.ii.

hym

Capl. 7.

him, that ye within the yere and the day
after the fyrst claime made, to make ano
ther clayne in the forme aforesayde. And
within the yere and the daye after the se
cond claime made, to make þ the 2d claime
in the same maner, and within the yere
& the day after the the 2d claime, to make
an other claime, and so forth, that is to
say, to make an other claime within eue
ry yere and day nexte after euey clayne
made, durynge the lyfe of his aduersarie
and the at what time that his aduersarie
dieth sealed, his entre shal not be taken a
way by no suche discent. And such claime
made in suche maner is most commonlye
taken and called continuall claym of him
that made the claim. But yet in case afo
sayde where his aduersary dyeth within
the yere and the daye nexte after the fyrst
claime: this is in the lawe a continuall
clayne: in somuch þ his aduersarie dieth
within the yere & the daye after the same
claim, for it is no nede for him that made
the claim to make any other clayne, but
at þ tyme that he wil within þ same yere
and the day. &c. And if his aduersarie be
disseised within the yere and the daye af
ter the claime, & the disseisour dieth ther
of sealed within the yere and the day. &c.
This dieng sealed shal not hurt hym that
made the claim, but that he may entre. &c.

For whoſoeuer he be, that by the ſeaſed
within þ yere & the day after ſuch clayme
that ſhal not hurt him þ made the clayme
but that he may enter though there were
many dienges ſeaſed, and many dyſcres
within the yere and the day. &c. nota hoc.

¶ Also yf a man be dyſſeſed, and the
diſſeſour dieth ſepſed within the yere,
and the day next after the diſſeſyn made
whereby the tenementes deſcende to his
heyr: in this caſe the entre of the dyſſeſ-
ſee is taken awaye, for the yere and the
day that ſhulde helpe the diſſeſſe in ſuche
caſe. &c. ſhall not be taken from the tyme
of the title of entre growe unto him, but
only from the tyme of the clayme by him
made in tyme afozeſayde. And for that
cauſe it ſhalbe good for ſuche a dyſſeſſe,
for to make his claim. &c. in as ſhort tyme
as he may after the diſſeſſin. &c.

¶ Also if ſuche a diſſeſſoure occupie the
land by forty yeres or mo withoute anye
clayme made by the diſſeſſe. &c. and the
dyſſeſſe by lyttle ſpace befoze the deathe
of the diſſeſſour, make a clayme in þ forme
afozeſayde, yf it ſo fortune that within a
yere & a day after ſuche clayme the diſſeſ-
ſoure diſſeſſed. &c. then the entre of the
diſſeſſe is coungeable. And for this it
ſhalbe good for ſuch a man that made no
claim that hath title to enter. &c. when he

hereth that his aduersary lyeth syche, to make his clayme. &c. as it is sayde in the rales put befoze, wherc a man hath title to enter bycause of a dyscepsyn. &c. The same lawe is, wherc a man hath ryght to enter bycause of any other tytyle. &c.

¶ Also in this sayde presydcntes may ye know my child. ii. thinges. One is wherc a man hath tytyle to enter vpon a tenaunt in tayle, yf he make anye suche clayme to the lande. &c. This is the state of the tayle defeated, for that clayme is as an entre made by hym, and is of the same effect in the lawe, as yf he were vppon the same tenementes, and had entred in the same tenementes as is aforesayde. And then when the tenant in tayle immediatly after such claime continueth his occupacion in the same tenementes, this is a disseisin made of the same tenementes vnto hym that made the claime. Et sic per consequens, the tenaunt then hath fee symple. &c.

¶ The second thing is that as ofte as he that hath ryght to entre, makethe suche clayme, and this notwithstanding his aduersary cōstrnueth his occupacion, as oft as the aduersarye dothe wꝛonge and dyscepsyn to hym that made the clayme. And for this cause so often may he that made the same clayme, for everye suche wꝛonge and disseisin made vnto hym, haue a wꝛit

Continual clayme. Fo. C. bill.

Cap. 7.

of trespass, Quare clausū & sumum fregit. &c. and shall recouer his damages. &c. and he may haue a wryt vpon the statute of king Rycharde the seconde made the fyfth yere of his reigne, supposynge by hys wryt that his aduersarye hath entred into the landes or tenementes of hym that made the clayme, where his entree was not good nor gyuen to hym by the lawe. &c. and by suche actyon he shall recouer his damages. &c.

And yf the case be suche, that the aduersarye occupye the tenementes with force and armes, or with a multitude of people at the tyme of such clayme. &c. Then after suche clayme he shal make the clayme maye for euery such tyme haue a wryt of forcible entree, vpon the statute of an. 8. D. 6. cap. 6. & recouer his treble damages. &c.

Also heare is to se, yf the seruaunte of a man that hath tytyle of entree, may by the commaundement of his maister make continuall clayme for his mayster in his name, and it semethe that in some cases he maye do thys, for yf he by his commaundemente come to any parcell of the lande, and there maketh clayme. &c. in the name of his maister, this clayme is good ynoughe for his mayster, for this that he hath done all that that it behouethe his mayster to do in suche case. &c.

D. liti.

Also

Capl. 7.

¶ Also yf a maister say vnto his seruant that he dare not go vnto the lande, nor to any parcell of the lande, for to make his clayme. &c. and dare not appoche moze nyghe vnto the sayd lande, saue to such a place called Dale, and comaundeth his seruant to go to the same place of Dale, and there to make a clayme for hym. &c. if the seruant so do. &c. this semerth as good clatme for his maister as yf he hadde bene there in his owne person, for to that the seruant did al that his maister durst do, and ought to do by the lawe in such case.

¶ Also if a mā be so speke or so lame that he may not in no maner come to the land nor to any parcell of the same, or yf there be a recluse that maye not by cause of his order go oute of his house. &c. yf suche a maner person commaunde his seruante to go and make clayme for hym. &c. & the seruant dare not go vnto the land, nor to any parcell therof for doubte of beating, mayming, or death. &c. and for that cause such seruant commeth as nigh vnto the lande as he dare for such dyede, & maketh such clayme. &c. for his maister, it semerth that such clayme for his maister, is good and stronge ynoughe in the lawe, for els his maister shulde be in to great mischefe, for it may well be, that such a person is sicke or lame, or recluse, can not synd any
seruante

Contynual clayme.

Fol. C. ix

Cap. 34

seruant that dare go vnto the land, no: to any parcel of it, to make the clayme for hi. &c. But yf the maister of such a seruaunt be in good health, & may and dare well go to the tenementes, or to parcell of it, to make hys clayme for hym. &c. yf such a maister comaund his seruant to go to the parcel of the lande, and make clayme for hym. &c. And whē the seruant is in going to do the comaundemēt of his mayster, he heareth by the way such thinges, that he dare not go to any parcel of the lande for to make any clayme for his mayster, and for that cause he goeth as nygh vnto the lande as he dare, for doubte of death, and there he maketh clayme for his maister, & in the name of his mayster. &c. it semethe that þ doubt in the lawe in such case shal be if such clayme auayleth to his maister or not, for this that the seruaunt dyd not all thys that hys mayster at the tyme of commaundement durst haue done.

¶ Also some haue sayd þ where a man is in prysen, & is dysceyled and þ dysceylow dieth seiled, during the tyme that the dysceylie is in prysone, by whiche the tenementes dyscende to the heyze of the dysceylow, they haue sayd that this shal not hurte the dysceylie that is in prysen. &c. but that he may wel entre, notwithstanding suche dysceinte, for this that he maye not

D. b.

make

Concerning
this mat-
ter seke
opinions
of the iust-
ices. Pa. 4.
p. 6.

Item and p. 42. m. 10

Lyttelton liber .3.

cap. 7.

make contynuall clayme when he was in pꝛyson. And also yf suche a one that is in pꝛyson be outlawed in an action of det, or trespass, or in appeale of robbery .&c. he shal reuert such outlawry by wyꝛt of erreure. &c. bicause he was in pꝛyson at the tyme of outlawrye against him pꝛonounced. &c.

☞ Also yf a recouerye be hadde by defaulte against such a one that is in pꝛyson he shal auoyde the iudgemente by a wyꝛt of errour, for this that he was in pꝛyson at the tyme of such defaulte made. &c. And bicause that such matters of recoꝛde shal not hurt them that be in pꝛyson, but that it shalbe reuersed. &c. A multo foꝛtioꝛi, it semeth that a matter in dede that is to sai suche discent had when he was in pꝛyson shal not hurte him. &c. Specialye for this that he may not go out of pꝛyson to make contynuall clayme. &c.

☞ And in the same maner it semeth to them, where a man is out of the realme in the kinges seruice, for busynesse of the realme, and yf suche a man be dyscysed whē he is in the scrupce of the kyn, and the dissolour dyeth seysed, suche dyscēte shal not hurte the dyscysce, but for this that he myght not make continual claim &c. it semeth vnto them, that when he cometh againe into England, he may enter
bpon

Contynual clayme. For. C. r.

bypon the heire of the disseisour. &c. For. Cap. 7.
suche a man shall reuerse an outlaw; y
that is pronounced agaynste him, during
the tyme that he is in seruyce. &c. Ergo
a multo fortiori, he shal haue ayde by the
lawe in the other case. &c.

Also other haue sayde, that yf a man
be out of the realme, though he be not in
the kynges seruyce, yf such a man beyng
out of the realme, be dysseysed of landes
or tenementes within the realme, and the
disseisour disseised. &c. the disseisee beyng
oute of the realme, it semed vnto them
that when the dysseisee cometh into
the realme, that he may wel enter bypon
the heyre of the disseisour. &c. this semeth
vnto them for two causes.

One is, that he that is out of þ realme
may not haue knowlege of þ disseis made
vnto him by vnderstandyng of þ law, no
more the þ a thing done out of the realme
maye be tryed within the same realme by
the othe of xii. men. &c. & to compelliche
a man by þ law, to make cōtinual clayme
which by the vnderstandyng of the lawe
can haue no knowlege or cognysaunce of
suche disseisin made or done, this shall be
inconuenient, and namely when suche a
disseisin is done vnto hym, when he was
out of the realme, and also the dyeng sei-
sed was done, when he was out of the re-
alm

Lytelton lyber. 3.

alme. For in such case he may not by possybliprie after the common presumption, make no contynall clayme. But otherwise it shalbe if the dysseysne were within the realme at the tyme of the dysseysyn, or at the tyme of the dysseysne scised of the dysseysour. 19. 6. 13. 7.

¶ An other matter they allege for a pofe whē the statute of kyng Edward the .3. the .34. yere of his raygne was made, by whiche estatute no clayme is out. &c. the lawe was such, þ if a fyne were leued of certain landes or tenementes, if any that was a stranger to the fyne had ryghte to haue and to recouer the same landes or tenementes, if he came not & made hys clayme to it wthin a yere & a day next after the fyne leued, he shalbe barred for euer. Quia discebat finis, finis litibus imponebat. And that the lawe was such, it is proued by þ statute of westminster the seconde. De donis conditionalibus, where it speaketh that if the fyne be leued of tenementes geuen in þ tale. &c. Quod finis ipse tunc sit nullus, nec habeant heredes huiusmodi aut illi ad quos spectat reuercio, licet fuerint plene etatis in Anglia, et extra p̄lsonam, necesse apponere clameum suum. So it is proued, that yf a straunger that hath right vnto the tenementes if he were out of the realme at the tyme of the fyne leued

Contynual clayme. Pol. C. xl.

Capl. 2.

keuyed. &c. shal haue no damage, though p
he made not his clayme. &c. though he that
such tyme was matter of recozd. By grea-
ter reasone it semeth vnto the that a dis-
seisin & a discent, p is matter in dede, shal
not so greue him that was dysseised whē
he was out of the realme at the tyme of p
disseisin, and also at the tyme that the dis-
seisour dyed seased. &c. but p he may well
entre, notwithstandinge suche dyscense.

¶ Also enquire yf a man be disseised, and
he arraigne assise against the disseisour,
and the recognitors of the assise chaunge
for the playnrite, & the Iustices of p assise
wyl be aduised of theyr iudgement vntyl
the next assise. &c. and in the meane season
the disseisour dieth seised. &c. yf the sayde
suyte of p assise shalbe taken in lawe, for
the sayd disseise a continual clayme, in so
muche that no default was vnto him. &c.

¶ Also enquire yf an abbot of a monas-
terye dye, and durynge the tyme of va-
cacyon a man wrongfully entreth in cer-
tain parcell of lande of the monasterye
claymyng the lande vnto hym and hys
heires, and of that estate dyer the seised
and the lande descendeth vnto hys heire
and after that an abbote is choien, and
made abbot of the same monasterye, a que-
styon is, yf the abbot may entre vpon the
heire or not. And it semeth to some, p the
abbot

abbot may wel enter in this case, for this that the couent in tyme of vacacion were not personable to make continual clayme, for no more then they be personable to sue an action, no more be they personable to make continual claime, for the couent is but a deade body without heade, for in tyme of vacacyon a graunte made vnto them, or by them is voyde, and in this case the abbot may not haue a wytt of entre vpon disseisin agaynste the heyre, for this that he was neuer disseised.

¶ And if the abbot may not enter in this case, than he shalbe put vnto his wytt of ryghte, the whiche shalbe harde for the house, whereby it semethe to them, that the abbot may wel enter. &c.

*Quere de dubis, legē bene discreē si bis
Querere dat sapere, q̄ sūt legitima bere.*

¶ Releases. Cap. viii.

Releases of
all ryght.

Releases be in diuers maners that is to say, releases of al right that a man hath in landes or tenementes, and releases of actyons reals and personals, and of other thynges. Releases of al the right that a man hath in landes or tenementes. &c. is commonly made in such forme or to such effect. *Mouerint vniuersi per presentes me A. de. B. remisisse, relaxasse et omnino de me et hereditibus meis quiet clamasse. Vel sic pro me et hereditibus*

bus meis quietur clamasse C. de D. totum
ius titulum et clameum que habui habeo
vel quouimodo in futurum habere poter
to de et in bno meluazio cum partinefi in
futurum. &c.

And it is to vnderstande, that these
wordes remisitte & quiet clamasse, be of
such effect as these wordes relaxasse. &c.
and also these wordes, which be comon-
ly put in such dedes of releffes. &c. that is
to vnderstand. Que quouimodo in futu-
rum habere poteru, be as wordes boorde in
the lawe, for no right passeth by a release
but the right that the releaffour hathe at
the tyme of his release made. For if there
be father and son, and the father be dys-
seised, and the son liuing his father rele-
seth by his dede to the dysseisoure all the
ryght that he hathe, or maye haue in the
same tenementes without clause of war-
rante. &c. and after the father dyeth,
the son maye lawefullye enter vppon the
possession of the dysseisoure, for this that
he hadde no ryghte in the lande when he
released, that is to say, in the lyfe of his
father, but the ryght descended vnto him
by discent after the release made by the
death of his father. &c.

Also in a release of al þ right that a mā **I** grounde.
hath in certain lādes. &c. it behoueth vnto
him

him, to whom the release is made in such case, that he haue a freholde in the landes in dede, or in the lawe at the tyme of the release made. &c. for in every case where he, to whom the release is made, hath a freholde in dede, or in lawe. at the tyme of the release made. &c. then the release is good. If an iocunement in the lawe is as yt a man haue disseiled an other, and therof dieth seised, by the which the tenementes descende vnto his son, howbeit that his son enter not in the tenementes, yet he hath a franke tenement in the lawe which by force of disseil is thowen vpon hym, and therfore the release made to hym, so beyng seised of franketenement in the lawe is good ynough. And yt he take a wife so beyng seised in the lawe, howe be it that he neuer enter in dede his wyfe shal haue therof her dower.

¶ Also in such case of releases of al right howbeit that he to whome the release is made, ne hath any thyng in the franketenement, neyther in dede nor in lawe, yet the release is good inough. As yt the dysseysour haue let land, that he had by disseil to an other for terme of his lyfe, sayng the reuercion to hi, if the disseiler or his heyres release vnto the dysseysour all þe right. &c. that release is good, for this that he to whom the release is made, hadde in
hym

him a reuerſiõ at þe tyme of þe releſe made

In the ſame maner it is, yf a leaſe be made to a man for terme of life, þe remainder vnto an other for terme of an others life, the remainder vnto the thyrde in the taylor, the remainder vnto the fourthe in ſec, if a ſtranger that hath right vnto the land, releſe al his right vnto any of them in the remainder, ſuch releſe is good for this that euery of them hath a remainder beſted in hym ſelfe, yet if the tennaunt for terme of life be diſſeiſed, and after he that hath right, the poſſeſſion being in the diſſeiſoure, releaſe he vnto one of them, to whom the remainder was made, all his tpyghte. &c. that releſe is boyde, for that that he ne had in hym no remayneder in dede at the tyme of the releſe made. Et nota, that euery releſe made to him that hath a reuerſyon or a remaynder in dede ſhall ſerue and helpe hym that hath the francheſement, as wel as him to whom the releſe is made, yf the tennaunte haue the releſe in his hande. &c.

In þe ſame maner it is, where a releſe is made to a tenant for terme of life, or to a tenant in the taylor, this ſhall enure vnto them in the reuerſyon, or to theſe in the remainder, as wel as to the tennaunte of francheſementes, and ſhall haue as good auantage of þe, if þe they may ſhewe it

Capit. 3.

¶ Also if there be lord and tenant and the tenant is disseised, and the lord releases to the disseisee all the right that he hath in the seignorie, or in the lande, this release is good and the seignorie is extinct. And this is by cause of the presentie that is betwene the lord and the disseisee for if the goodes of the disseisee be taken and of them the disseisee sueth a writ of right against the lord, he shall compell the lord to avowe upon him, and yf he wyl avowe upon the disseisee, then upon the matter shewed, the avowre shal be abated, for the disseisee is tenant to hym in right and in lawe.

¶ Also if lande be gyven to a man in the tale, reserving unto the donour and his heires a certayne rent, if the donee be disseised, and after the donour releaseth to the donee and to his heires all the right that he hath in the lande, and after the donee entreteth into the lande upon the displeasure, in this case the rent is gone. for this that the disseisee at the tyme of the release made was tenant in right and in lawe unto the donour, and the avowry of fine force ought to be made upon hym by the donour for the rent behynde. &c. But yet nothyng of the right of the land, that is to say, of the right of the reuerce shal passe by such release, for this that the donee

donce to whom the release was made, the
had nothyng in the land, but only a right
and so the right of the lande ne maye not
passe by such release to the donce.

¶ In the same manner it is yf a lease be
made to one for terme of lyfe, reseruyng
to the lessoure and to his heyres certayne
rent, if the lessee be disseised, and after the
lessoure releaseth to the lessee and to his
heyres all the right that he hath in the
landes, and after the lessee entreteth, howe
beit that in that case the rente is extinct
yet nothyng of the right of the reuercion
passeth. &c. Causa qua supra.

¶ But if there be very lord and very te-
nant, and the tenant maketh a feoffment
in fee, the which feoffee neuer became te-
nant to the lord. &c. if the lord release to
the feoffour al his ryght. &c. that release
is in al wyse, for this that the feoffour
hath no right in the lande, and he is no te-
nant in right to the lord, but only tenant
as for the auourie to be made, and he shal
neuer compell the lord to auowe bypon
him, for the lord may auowe bypon the
feoffee, yf he wyl, otherwyle it is, where
the very ternaunte is dysseised, as in the
case aforesayde, for yf the very ternaunt
that is dysseised holderbe of the Lord
by knyghtes seruyce, and dyethe, his
heyres beyng within age, the lord shal
haue

Lytelton liber. 3.

haue and seale the wardc of the heyre.
And so ye shall not haue the wardc of the
feoffour that made the feoffement in fee.
&c. and so it is great dyuersytye betwene
these two cases.

C Also yf a man enfeoffe an other .&c. in
his lande bpon truste, and to the entente
that he shall persourne his last wyl, and
the feoffour occupyeth the same lande at
the wyl of his feoffees, and after the feofs-
tees release by theyr dede, vnto the feofs-
four all the ryght. &c. This hath ben in
questiō, if such release be good or not. And
some haue said, that such release is boide
for this that no pziuitie was betwene the
feoffees & theyr feoffour, in so much that
no lease was made after such feoffement
by the feoffees, to theyr feoffoure to hold
at theyr wyl. &c. And some haue sayd the
contrary, & that for two causes. One is
when such feoffement is made bpon con-
fidence to persourne the wyl of the feofs-
four, & it shalbe vnderstande by the lawe,
that the feoffour by & by ought to occupy
the lande, at the wyl of his feoffees, & so
it is a maner of pziuite betwene the, as if
a man make a feoffement to other persōs
and they incontinent bpon the feoffemēt
wyl and graunt that the feoffour shal oc-
cuppe the lande at theyr wyl. &c.

C An other cause they allege, that yf sus-
che

the land be worth. xl. s. by recc. &c. Then
 suche a feoffour shalbe swozne in assyses,
 and in other enqueetes in ples reals, and
 also in ples personels, of what great su-
 mes so euer that þ plaintiffes wyl declare
 &c. and this is by the common law of the
 lande. Ergo this is for a great cause, and
 the cause is that the lawe wyl, that such
 feoffours and their heyres ought to occu-
 pye. &c. and to take & occupye and enispe
 all maner profytes, issues & reuenues. &c.
 as though þ tenemētes were theyr owne
 without interruption of the feoffees, not
 withstanding such feoffement. Ergo the
 same lawe geueth a priuite betwene such
 feoffours, and theyr feoffees bpon confis-
 dēce. &c. For which causes they haue said
 that suche releasses made by such feoffees
 bpd confidence to the feoffour, or to his
 heyres. &c. so occupieng the lande, shalbe
 good ynoughe. &c. And this is the better
 opinion, as it semeth. &c. Quere, for this
 semeth no lawe at this daye.

¶ Also releasses after þ matter in dede
 some tyme haue theyr effecte by force, to
 enlarge the estate of them, to whome the
 release is made, as yf I let certayne land
 to a mā for terme of yeres, by force toher
 of he is possessed, and after I releasse by-
 to hym all the ryghte that I haue in the
 land, wout moze wordes set or put in the

It is holden in. 25.
 b. 7. fol. 1.
 & at the C
 office shall
 haue an ac-
 tion of tre-
 pas again
 hym that
 hath thuse

dede, and deliuer vnto him the dede, then
he hath estate but for terme of his life, and
the cause is for this that when the reuer-
sion of the remainder is in a man which
will enlarge by his release the estate of the
tenant. &c. he shall haue no greater estate
but in the maner and forme, as if such a
release were sealed in fee, and will by
his dede make estate to one in a certayne
forme. &c. and deliuer vnto him lease in by
force of the same dede, if in suche dede of
seoffement, there be no worde of inheri-
tance. &c. then he hath estate but for terme
of lyfe. &c. And so it is in suche releases
made by him in the reuercion, or in the re-
mainder. For if I let lande to a man for
terme his lyfe, & after I release to hym
all my ryght without more sayeng in the
release, his estate is not enlarged. But if
I release vnto hym, and to his heyres of
his body engendered, then he hath fee tayle
And if I release vnto him & to his heyres
then he hath fee simple. And so in all re-
leases that go to the enlargement of the
estate of any man, it behoueth in suche
case to specifye in the dede of the release
what estate he to whom the release is made
shall haue. &c.

¶ And some dedes of releases shall enure
to let and put the ryght of him which maketh
the release to him, to whom the release is
made

made. As a man is disseised, & he releaseth
 into the disseisor al the right þ he hath
 in this case þ disseisor hath his ryght so
 that where his estate before was wrong
 nowe by the release it is laweful & right.
 But here note well, that whan a man is
 seised in fee simple of any landes o; tene-
 mentes, & another wyll release into him
 al the ryght that he hath in the same tene-
 mentes, it nedeth not to speke of þ heires
 of hym, to whome the release is made, for
 this that he had fee simple at the tyme of
 the release made, for yf the release were
 made to him and to his heires for onc day
 o; for onc houre, this shalbe as strong bñ
 to him in the lawe as if he had released to
 him and to his heires, for whan his right
 was gone from him at one tyme by his re-
 lease without any condycion. &c. to hym
 that had fee simple, it is gone for cuer. But
 where a mā hath a reuercion o; a remain-
 der in fee simple at the tyme of the relese
 made, there yf he wyll release to the te-
 nante for terme of yeres, o; for terme of
 lyfe, o; to the tenant in the tail, it be-
 houth to determyn the estate that he to
 whom þ relese is made shal haue by force
 of the same release. For thys that suche
 release goeth to enlarge the estate. &c. of
 him, to whō the relese is made. But other
 wyse it is where a man hath but a ryght
 but

bnto the lande, and hath nothynge in the reuercion, no? in the remaynder in dede. For if such a man releafe all hys right to one that is tenaunt of the franktenement there all hys ryghte is gone, though that no mencyon be made of the heyres of him to whom the releafe is made. For if I let landes o? teneimentes to a man for terme of his lyfe, if I after releafe bnto hi for to enlarge his estate it behoneth þ I releafe bnto hym and to his heyres of his bodye engendred, o? to him and to his heires, o? by suche wordes to haue and to holde to him & to his heyres males of his body begotted, o? by suche lyke wordes. &c. o? otherwise, he hath no greater estate thē he had before. But if my tenant for terme of lyfe let the same lande out to an other for terme of the life of his lessee, þ remainder bnto an other in fee, now if I releafe bnto him to whō my tenant letted for terme of life, I shalbe barred for cuer, though that no mencion be made of his heyres, for this that at the tyme of the releafe made, I had no reuercion, but onely a ryght to haue þ reuercion. For by such a lease w a remainder ouer that my tenant made, in ths case my reuercion is discontinued. &c. & suche a releafe shal enure bnto him in þ remainder to haue aduantage of this as wel as to þ tenant for terme of lyfe, for to þ extent the

tenaunt

Releases.

Fol. C. xlii.

Cap. 9.

tenant for terme of lyfe, and he in the re-
maynder be as one tennaunt in the lawe
and be as if one tennaunt were sole seised
in hys demesne as of fee, at the tyme of
suche release made vnto hym. &c.

¶ Also if a man be dysseised by two, if
he release vnto one of them, he shal holde
hys felowe out of the lande, and by suche
release he shal haue sole possession, and
estate in the lande. But if one dysseisour
enfeoffe two in fee, and the dysseisee res-
lesse to one of the feoffees, this shal ens-
ure to bothe the sarde feoffees. And the
cause of the dyuersitie betwene these two
cases is pregnant ynoughe.

¶ Also if I be disseised, & my dysseisour
is disseised, if I relese to the disseisour or
my disseisour, I shal neuer haue assise nor
enter vpon his disseisour, for this þ hys
disseisour hath my right by my relese. &c.

¶ Also it semeth in this case, that if there
were twenty dysseisours eche after other
and I release to the laste dysseisour, he
shal barre al the other of theyr actyons
their titles. And the cause is as it semeth
for this that in manye cases when a man
hath a lawefull tytle to enter, though he
entre not, &c. he shal defete al menes titles
by his relese. &c. But this is not in euery
case, as shalbe sayde afterwarde.

¶ Also if my disseisour letteth þ tenement

B. b.

its

Cap. 3.

tes, where of he discised me, to a man for
terme of life, & after þ tenant for terme of
lyfe, alyenerh in fec, and A releffe to the
alyence. &c. the my discisour may not en
ter cā qua supꝛa, though that at one tyme
the alienacion was to his disheritace. &c.

¶ Also if a man be dysseised, the whiche hath a son within age, and dieth, and beynge the son within age the disseisour dieth seised, and the lande descendeth to his heyre, and a straunger abateth, and after the son of the disseisee, when he cometh vnto full age releaseth all his right &c. to the abatour. In this case the heyre of the disseisour shalbe barred of his assise of mortdancester against the abatour so; this that the abatour hath the ryghte of the son of the dysseisee, by hys release, and the entree of the son was lawfull. &c. so; thys that he was within age at the tyme of the discent. &c.

¶ But if a man be disseised, and the disseisour maketh a feoffement vpon condition, that is to say, to yeld vnto hi certain rent, & for the default of paymēt, a reuerſe. &c. if the disseisee release to the feoffee vpon condition, yet notwithstanding this not the estate of þe feoffee vpon condition, for notwithstanding such releafe, yet his estate abideth vpon condition, as it was before.

In the same manner it is where a mā is

Inm hoc
 concordat
 opinio om-
 nium Ju-
 d. 19.9.
 7.

disseised of certayne lande, and the dissey-
four graunterh a rent charge oute of the
same land, though that after the disseisee
releaseth vnto the disseyfour. &c. yet the
rent charge abyderh in his force. And the
cause is l these two cases, that a mā shall
haue none aduantage by such relese, that
shalbe agāst his owne propre acceptance
and agāst his owne grant. And though
that some haue said, as is a fozsayd, that
where the entre of a man is congeable bp
pon a tenant, if he release to the same te-
nant, that this release auayleth vnto the
tenant: so as if he had entred vpon the te-
nant, and after enfeofed him. &c. this is
not true in euery case, foz in the fyrst case
of these two fozsayd cases, if the disseisee
in fee enter vpon the fesse vpon condiciō
and after enfeofeth him, then the condi-
tion is al put aside and boyde, And so in
the seconde case if the disseisee enter, and
enfosse hym that graunted the rent
charge, then is the rente charge adnulled
and auoyded. But it is not auoyded by
any such relese without entre made. &c.
¶ Also yf a man be disseised by a chyld
withīn age, & which alieneth in fee, and
the alienee dieth seised, and his heyre en-
treth, beyng the alpenoure withīn age.
Nowe it is in the electyon of the dysse-
four to haue a writte of Dum fuit infra
statem

etatem, oꝛ a wytte of ryghte agaynst the
 heyze of the alience, and whiche wytt of
 the two so euer he takethe, of them he
 ought to recouer by the law. And also he
 may enter into the lande without any re-
 couere by action, and in this case the en-
 tre of the disseisee is taken away. But in
 this case if the disseisee release his ryghte
 to the heyze of the alience, and after the
 disseisour bꝛyngerh a wytt of right agaynst
 the heyze of the aliene, and he toyneyth the
 mise vpon the clere right. &c. the graunde
 assise ought by the lawe to fynoe that the
 tenant hath moze clere right. &c. the hath
 the disseisour, foꝛ this that þe tenant hath
 the ryghte of the dysseisee, by his release,
 whiche is moze aunciente and moze clere
 right, then the righte of the dysseisour
 foꝛ by such release al the right of the dys-
 seisee passeth vnto the tenaunt, and is in
 the tenant. And to this some haue saide,
 that in such case where a man hath right
 to landes oꝛ tenementes, but his entre is
 not lawfull, if he release vnto the tenant
 al the right. &c. then suche release shal en-
 ure by way of extinguisshmente. As vnto
 this it may be said, that this is trouth vnto
 him that releaseth, foꝛ by his relese he
 hath dysmissed him selfe cleane of all hys
 ryght, as to his person. But yet the right
 that he had maye well passe and go vnto
 the

the tenant by his releafe, for it shalbe he
inconuenient, that such an ancient ryght
shalbe extinct al betwixt by his releafe
.fc. for it is commonly sayde, that ryghte
may not dye. But a releafe that goeth by
the waye of extinguisshement agaynst all
persones, is where he, to whome the re-
lease is made, may not haue this that bi-
to him is releaseth: as if there be lord and
tenant, and the lord releaseth the vnto the
tenaunt all the ryght that he hath in the
lordshyppe, or all the ryght that he hath
in the lande. .fc. suche a releafe goeth by
waye of extinguisshement agaynst all per-
sons, for this that the tenaunte may not
haue the seruyce of hym selfe.

A releafe in
bryng by
wyse of ex-
tinguyshe-
ment.

¶ In þe same maner it is of a releafe made
to the tenant of the land of a rent charge
or of a common pasture. .fc. for this that
the tenant may not haue that, by waye of
taking it, þe vnto hi is releaseth. .fc. so suche
releaseth shal endure euermore by waye of
extinguisshement agaynst all persons. .fc.

¶ Also to proue þe grand assyse ought
to passe for the tenant in the case aforesaid
I haue harde often in the lecture by þe the
statute of westminster the. ii. cap. iii. that
beginnerh. In casu quando vir amiserit
per de saltam tenementum quod fuit ius
brozis sue .fc. that is at the common
lawe befoze the statute, if a lease were
made

Lyttelton liber .8.

Capit. 8.

made to a man for terme of lyfe, the re-
maynder ouer in fee, and a stranger by a
fayned action recouer against the tenant
for terme of lyfe by defaute, and after the
tenant dyeth, he in the remainder had no
remedy befoze the statute, for this that he
had no possession of the land. But yf he in
the remainder had entred by the tenant
for terme of lyfe, and disseysed hym and
after the tenant entrech, by hym, & after
the tenant for terme of life lescth by such
recouere had by default, and dyeth, now
he in the remainder may wel haue a wyrt
of ryght agaynst him þe recovered, for thys
that the myse shalbe ioynd onelye upon
the clere right. &c. And yet in this case
the seysyn of hym in the remaynder was
defeted by the entree of the tenant for tme
of lyfe. But peraduenture some wil argu
and saye that he shall haue no wyrtte of
ryghte in thys case, for this that whyle
the myse is ioynd, it is ioynd in suche
a maner, that is to saye, yf the tenant
haue moze clere ryghte to the lande in
the maner as he holdethe, then the de-
maundaunte hath in the maner as he de-
maundeth. And for this that the scasin
of the demaundant was defeted by the en-
tree of the tenant for terme of lyfe, then he
hath no right in the maner as he demaun-
deth. Unto this it may be sayd that these
wozdes

wordes modo et forma prout. &c. i many cases be wordes of maner of pleadynge, and no wordes of substance, for if a man bypnye a wyrt of entre. In casu prouto of alienacion made by the tenar in dower to his disinheretance, and pleaderth of the alpenacion made in fee, and the tenaunte saythe, that he alpened not in the maner as the demaundant hath declared, and bp on this they be at issue, and it is founde by verdyte that the tenant alpened in the taylor, or for terme of an others lyfe, the demaundant shal recouer, and yet the alienacion was not in the maner as the demaundant hath declared,

The effects
of these
wordes mo
do et forma

Also yf there be lord and tenaunte, and the tenaunt holdeth of the lord by fealtye onely, yf the lord distrayne the tenaunt for rent, and the tenant bypnygeth a wyrtte of trespas agaynst his lord for his cattel so taken, and the lord pleaderth that the tenaunt holdeth of him by fealtye and certayne rent, and for the rent behind he came and distrayned. &c. and demaundeth iudgemente of the wyrtte brought agaynst him Quare vi et armis. &c. and the other sayth, that he holdeth not of hym in the maner as he supposeth, and bp on this they be at an issue, and it is found by verdyte, that he holdeth of hi by fealtye tantum, in this case the wyrt shal abate & yet be

Capit. 4.

he helde not of the lord in the matter, and the lord had sayd, for the maner of the issue is, whether the tenaunte holder be of him or not. For if he hold of him, though that the lord distrayne the tenant for other services, he ought not to have, yet such writ of trespass. Quare vi et armis. &c. lyeth not agaynst the lord, but shal abate. ¶ Also in a writte of trespassse, of beating or of goods taken, if the defendante pleade nothing culpable in the maner, as the plaintife supposeth, and it is founde that the defendante is culpable in an other towne within the same shyre, or at an other day then the plaintife supposeth, yet he shal recover. And in many other cases these wordes, that is to say, in the maner as the demaundant or the plaintife hath suppoled, be no matter of substance of that issue, for in a writ of right, wher the mile is ioynd upon the clere ryght, it is as much to say, and to such effect, that is to wytte, whether hath the more ryght the tenant or demaundant to the thyng so demaunded. &c.

¶ Also yf a man be dysseised, and the disseisour dieth leased. &c. and his son and heire entreth in by descent, and the dysseisour entreth upon the heire of the disseisour, the which entre is a dysseisin. &c. yf the heire byng assyle or a writ of entre

in nature of assise he shal recover. But if the heyre bying a wryte of right against the disseisee, he shal be barred. For this that when the graunde assise is sworne, they or he is bypon the clere ryghte, and not bypon the possession. &c. for yf the heire of the disseisour had brought assise of novel disseisin, or a wryt of entree in nature of assise, and recovered against the disseisee, and sued execution: yet may the disseisee haue a wryt of entree in p. agaynst him, of the disseisin made vnto him by hys father, or he maye haue agaynst the heyre a wryt of ryght. But if the heyre ought to recover agaynst the disseisee, in the case aforeclayde by a wryt of ryght, then all his ryght shal be clerely gone, for this that a final iudgement shal be gyuen agaynst him, which shuld be agaynst reals, where the disseisee hath moze clere ryght. &c.

Final iudgement in a wrytte of ryght.

¶ And knowe ye my son, that in a wryt of right after this that the four knyghtes be chosen in the graund assise, then there is no greater delay than in a wryt of formedone after this that the parties be at an issue. &c. and yf the myse be iorned bypon battayle, then there is lesse delaye.

¶ Also a release of all the ryghte. &c. in some case is good made vnto him, that is supposed tenant in the lawe, though he hath nothing in the reuenues, as in a

ap. 3.

Recipe quod reddat, yf the tenant aliene the land, yanginge the w;itte, and after the demaundant releaseth to him al his right that releafe is good, fo; this that he is supposed to be tenant by the suit of the demaundant, and yet he hath nothing in the lande at the tyme of the releafe made.

In the same maner it is if in a Recipe qd reddat, the tenaunt voucherh, and the vouche entreth in the garrantie, yf after the demaundant releafe into the vouchee al his ryght. &c. this is good inoughe, fo; this that the vouchee after this that he hath entred in the garrantie, is tenant in lawe to the demaundant.

Also as to releases of actions reals, and actions personals, it is so that some actions be mixt in the realtee, and in the personaltie, as if an action of wast be sued against the tenant fo; terme of life, this action is in the realty, fo; this that y place wasted shalbe recovered, & also it is in the personaltie, fo; this that the treble damage shalbe recovered fo; the wzonge & waste done by the tenant, & fo; this in this action a releafe of actions reals is a good ple in barre, & so is a releafe of actions personals.

In y same maner it is of assise of nouel disseisin, fo; this that it is mixt in y realty and in y personaltie, but if suche assise be arraigned against the disseisour and the tenant

nant, the disseitour may well pleade a release of actions personals, for to barre the assyle, for none may pleade release of actions reals in assise but the tenant. &c.

¶ Also in such actyons reals that be houth to be sued agaynste the ternaunt of the franke tenement, if the tenant haue a relese of actions reals of the demandante made vnto hi, befoze the wryt purchased and he pleaderth it, this is a good plee for the demandant to saye, that he that pleaderth that plee had nothyng in the franke tenement at the tyme of the relese made for then he had no cause to haue actyon real agaynst him.

¶ Also in such case where a man maye enter in landes or tenementes, and also where he may haue of this an action real which is giuen vnto hym by the lawe, agaynste the ternaunt, if in this case the demandant relese to the ternaunt all manner actions reals, yet this takerhe not away the entree of the demaundaunt, but the demaundant may wel enter, notwithstandinge suche relese, for this that nothyng is released but the action. &c.

¶ In the same maner it is of thinges personals. As if a man wrongfullie take my goodes, if I relese vnto him all actyons personals, yet I may by the law take my goodes out of his possession.

Lyttelton liber. 3.

pl. 8.

¶ Also yf I haue cause to haue a wyte or detinue of my goodes agaynst an other though that I release vnto him al actions personals, yet I maye take my goodes oute of his possession, for this that no ryghte of goodes is released to hym but only the action. &c.

¶ Also yf a man be dysseised, and the disseisour makethe a feoffement vnto dyuers persons vnto his vse, and the disseisour continually takethe the profits, &c. and the disseisee releaseth vnto hym all actions reals, and after he sueth agaynst him a wyte or entree in nature of assyse, by cause of the statute, for this that he takethe the profits. &c. Enquire howe the disseisour shalbe holpe by the sayd release for if he wyll plede the release generally, then the demandant may say, that he had nothyng in the franchise, at the tyme of the release made, and if he pleade the release specially, then it behoueth him to knowe a disseisin, and then maye the demandant, entree in the lande. &c. by his consaunce of the disseisin. &c. but peradventure by especial pleading he maye be barred of the assise þ he sueth. &c. though that the demandant may enter. &c.

¶ Also if a man sue appele of felony of þ death of his auncestor againste an other though the appellāt release vnto the defend-
dant

l. 11. 3.
a. 3.

dant all maner actyons reals, and personals, this shal not helpe the defendaunt, for this that this appeale is not an action reall, in so muche that the appellante shal not recouer any realtie in suche appele. For suche appele is no action personall. In so muche that the wronge was done vnto his ancestor, and not vnto him but if he release to the defendante all maner of actions, then it shalbe a good barre in the appeale. And so a man may se, that a release of all maner of actions, is better then a release of al maner of actyons reals and personals. &c.

The best
release of
actions.

¶ Also in appele of robbery, yf the defendant wyl plede a release of the appellante of al actions personals, this semethe no plee, for an action of appeale, where the appellant shal haue iudgement of deathe. &c. is moze high then an action personall and is not properly sayd an action personall: and therefore yf the defendaunt wil plede a release of the appellant, to barre him of the appeale, it behouethe hym to haue a release of all maner of actyons of appele, as it semeth. &c. But in appeale of mayme a release of all maner of actyons personals, is a good plee in bar, for this that in such an action he shal not recouer but damoges. &c.

¶ Also yf a manne be outlawed in an

action personal by proces of the original and byngeth a wytte of erreure, if he at whose suite he was outlawed, wyl plede against him a release of al maner of actions personals, this semeth no plee, for by the said action he shall recouer nothyng in the personaltie, but al onely to reuerse the outlawrye, but a release of a wytt of erreur shalbe a good plee.

¶ Also if a man recouer det or damage, & he release to the defendant al maner of actions, yet he may lawfully sue execution by Capias ad satisfaciendū, or by elegit, or by Fieri facias, for execution by suche writ may not be sayd an actyon: but if after a yere and a day the plaintiffe wyl sue a Scire facias, to knowe if the defendant can any thig say, for what cause þ plaintiffe shal not haue execution. &c. then if semeth a release of al action shalbe a good plee in barre, but some haue thought the contrary, in so much þ the writ of Scire facias, is a writ of recouery, & is to haue execution. But yet in so much þ upon the same writ the defendant may plede diuers matters after the iudgement giue, to put him fro executiō, as outlawrye, & bypers other matters. &c. therfore it may wel be said action. &c. & I trowe þ in a Scire facias, out of a fine, a release of al maner of actiōs is a good plee in bar, but where a
man

ma recouereth dette oꝝ damage, and it is accorded betwene them, that the plaintife shal not setwe execution, then it behoueth that the playntife make a release to hym of all maner of actions.

¶ Also yf a man release to an other all maner demaundes, this is the best release that he to whome the release is made can haue, and most shal enure to his aduantage, foꝝ by such a release of all maner of demaundes, all maner of actyons reals and personals, and actiōs of appeales be gone and extincte, and all maner of executyons be gone and extincte. Quere.

foꝝ Fitz James chiefe Justyce, of Englande helde the contrarye. D. 19. B. 8. foꝝ this that entre might not properly be called a demaunde.

¶ And if a man hath tytle to enter in any landes oꝝ tencmentes, by such release his tytle is gone, and if a man haue rent seruyce, oꝝ rent charge, oꝝ cōmon of pasture &c. by such release of all maner demaundes made to the tenaunt of the lande whercof the seruice of the rente oꝝ the common is goynge out, oꝝ in what lande so cuer the common be, the seruyce and rent, and the common is gone and extyncte. &c.

¶ Also if a man release to an other al maner quarrels, oꝝ al cōtrouersies oꝝ debates betwene thē. &c. Enquire to what matter

Capl. 8.

and to what effect such wordes extēd. &c.
¶ Also if a man be bounde by his dede to an other in a certayne summe of monney to pay at the feast of saint Michell the next folowynge. &c. if the oblige befoze the said feast, relese vnto the obligour al actiōs he shalbe barred of the dutie for euer, and yet he myght haue none action at þ tyme of the relese made.

¶ But if a man let lande to an other for terme of yer, to yelde of the feast of saint Michell next ensuenge. pl. s. and after the same feast he releaseth to the lessee al actions, yet after the same feast he shall haue an action of dette for the nene payement of the .pl. s. notwithstanding the sayde relese. Studye the cause of the dyuersyte betwene these two cases.

¶ Also where a man wyl sue a writ of right, it behoueth that he plede of the disseisin of him, or of his auncesters, and also that the seisin was in tyme of þ same kyng, as he pleadeth in his plece, for this is an auncient lawe bled, as it appereth by report of a certayne plece, in the heyre of Nottingham, in such forme as insueth
¶ Sy? John Barrer brought a writ of ryght agaynst Reynolde Allington, and demaunded certayne tenementes. &c. the myse was leynd in the banke. and the oþpygnall, and the pꝛocesse were sente befoze

before Justices errantes, where the parties came, and the twelue knyghtes were sworn, without chalenge of the parties for this that the election was made by assent of the parties of the four knyghtes and the othe was such, that I shal save trouth. &c. whether R. of A. haue more right to holde the tenementes, that John Barrey demaundeth agaynst hym by his wytte of ryght, or John to haue the tenementes as he demaundeth, and for nothyng to lette to save the trouth, as god me helpe. &c. without sayenge to theyr eschewyng, and such othe shalbe made in assaynte, and in battayle, and in waging of lawe, for those wyttes sette euery thyng vnto an ende.

¶ But John Barrey pleaded of the dysseisin of one Raufe his auncester in tyme of kynge Henry, and Reynolde vpon the myse ioyned tendered halfe a marke for the tyme. &c. And by this Herle Justyce sayde to the graund assise, after this that they were charged vpon the clere ryght. Good men, Reynolde gaue halfe a marke to the kyng to the entent, yf he fynd, that the auncester of John was not seysed in tyme, that the demaundant hath pleded, ye shal enquire no furder vpon the ryght and for this ye shal say to vs whether the auncester of John, Raufe bi name was sei-

Lyttelton liber. 3.

Cap. 3.

sed in the tyme of kyng Henry as he hath
pleaded oꝛ not, and if ye fynde, that he was
not sealed in the same tyme, ye shall en-
quyre no moze, & if ye fynde that he was
sealed, then enquyre farther of the ryght
And after the graunde assyse came with
theyꝛ verdyte, and sayd, that Raufe was
not sealed in the tyme of king H. wherby
it was awarded, that Raynolde shulde
holde the tenementes against the deman-
dant, and to him and to his heyres quite
of John Barray and his heyres to the re-
menaunt, and John in the mercy.

¶ And the cause why that I haue shew-
wed th the my sonne this plee, is foꝛ to
proue the matter aforesayde, whiche is
sayde in the wyrtte of ryghte. &c. foꝛ it se-
meth by this wyrtte, that yf Raynolde
hadde not rendered this halfe marke, foꝛ
to enquyre the tyme. &c. then the graunde
assyse ought to haue bene charged onely
of the clere ryght, and not of the possessy-
on. &c. And so that alwaies in a wyrt of
ryght yf the possession, wherof the deman-
dant pleadeth, be in the tyme of the kyng
as he hath pleaded: then the charge of
the graunde assyse shalbe onely upon the
clere ryghte, though that the possession
were against the lawe, as hath bene said
befoze in this chapter.

¶ Confirmation, Cap. ix.

¶ dede

Confyrmacion.

Fol. C. xxi

Dede of confyrmacyon is mooste **Capl. 9.**

A commonly made in such fourme, oꝛ to such effecte. Nouerint vniuersi. sc. me A de. B. ratificasse, approbasse, et confirmasse C. de D. statum, et possessionem, quos habeo de & in bno meluagio. sc. cum pertinentiis in R. sc. And in some case a dede of confirmation is good and baylable, where in such case a dede of release is not good noꝛ baylable.

¶ As if I let lande to a man foꝛ terme of his lyfe, the which letteth the same lande to an other foꝛ tyme of. xl. yerȝ, by foꝛce of the whiche he is possessed, if I by my dede confyꝛme the state vnto the tenaunte foꝛ terme of yeres, and after the tenaunt foꝛ terme of lyfe dyeth, durynge the terme of xl. yeres. I may not after enter into the lande, durynge the same terme, yet if I by my dede of release haue released to the tenant foꝛ terme of yeaꝛes, in the life of the tenant foꝛ terme of lyfe, this relese shalbe voyde, foꝛ this þ then no pꝛiuite was betwene me and the tenaunte foꝛ terme of yeres, foꝛ a release is not auailable to the tenaunt foꝛ terme of yeres, but where a pꝛiuite is betwene him & him þ releaseth **¶** And this is to be vnderstande where a man releaseth the ryght of a franketene-ment, oꝛ inheritance. But in case where he that released, hath right but foꝛ a certaine
terme

terme it is ootherwyle. As if the tenant for
terme of yerres be put out by a straunger
that maketh a lease to an other for terme
of yerres, if he that was put out release to
the second tenant for terme of yerres, this
is a good relese, *Causa qua supra*, and yet
no pꝛyuitie is betwene them.

¶ Also yf I be dysseised, and the dys-
seysoure maketh a relese to an other for
terme of yerres, yf I relese to the termour
this is boyd, but if I confirme his estate
this is good and effectuell.

¶ Also yf I be dysseised, and I confirme
the estate of the dysseysour, then he hath a
good and rightfull estate in fee symple,
though that in the dede of confyrmacion
no mencio is made of his heyyes, for this
that he had fee symple at the tyme of the
confyrmacion. For in such case if the dis-
seysour confyrmeth the state of the dysseysour
to haue and to hold to him & to his heyyes
of his body engendred, or to haue and to
holde to him for terme of his lyfe, yet the
disseysour hath fee simple and is sealed in
his demesne as of fee, for this that when
his estate was confyrmeth he had fee sym-
ple, and such dede may not change his es-
tate without entre made bypon him. &c.

¶ In the same maner it is, if his estate
be confyrmeth for terme of a daye, or for
terme of an houre, he hath a good estate. I

fee

Confymacion. Ro. L. ffoli.

Lay. 9.

ant for
unger
terme
ale to
, this
nd yet

dys-
er for
mour
estate

irme
ath a
ple,
you
this
the
dis-
our
res
to
the
d in
hem
im-
s es-
te.
ate
for
te l
fee

for this that his estate in fee
simple was ones confirmed. Quia confir-
mare idem est quod firmū facere. ¶ Also
yf my dysseisour make a lease for terme of
lyfe the remainder ouce in fee, yf I relese
to the tenant for terme of lyfe, this shal
enure to him in the remainder. But yf I
cōfirme the state of the tenaunt for terme
of life, yet after his decease he may wel en-
ter, for this þ nothing is cōfirmed but þ
estate of the tenāt for terme of life, so that
after his decease I may wel ent. But whē
I haue relested all my ryght to the tenant
for terme of life, this shal enure to him in
the remainder, or in the reuerciō for this
that al my right is gone by suche release.
But in this case if the disseissee confyme
the estate & the title, to hī in þ remainder
without any cōfymacion made to the te-
naunt for terme of lyfe, the disseissee may
not entre by þ the tenant for terme of life
for this þ the remainder is depending by
pō the estate of the tenāt for terme of lyfe
and if his estate be defered, þ remainder
shalbe defered by the entre of þ dysseissee.
And is against reſō, þ he shal by his entre
defete þ remainder against þ cōfirmaciō.
¶ Also if there be two dysseisours, and
the dysseissee releaseth to one of them, he
shal holde his felowe oute of the lande
but if the dysseissee confyme the state of
the

Capl. 9.

thone, without moze speche in the dede,
 some say that he shal not holde his felow
 out, but he shal holde ioyntly with hym,
 for this that nothyng was confyrmcd,
 but his estate that was ioint. And for to
 some haue sayd, that if two iointenantes
 be, and the one confyrmeth the estate of
 the other, that he hath but a ioynte estate
 as he had before, but if he haue such wor-
 des in the dede of confyrmacion, to haue
 and to hold to him and to his heyres all &
 tenemētes, wherof mēcion is made in the
 confirmacion, then he hath estate sole in
 the tenemētes, & therfore it is a good & a
 sure thinge in euery cōfirmacyon to haue
 these wordes, to haue & to holde the tene-
 mēte. &c. in fee or in fee tayle, or for terme
 of lyfe, or for terme of yeres after as the
 case or the matter is, for after the cūtent
 of some, yf a man let land to an other for
 terme of lyfe, and after he cōfirmer the his
 estate that he hath in the same land to haue
 and to hold his estate to him & his heyres
 this cōfirmaciō as cōcerning his heyres
 is boyde, for his heyres can not haue his
 estate, which was but for term of his life
 but if he confirme his estate by these wor-
 des to haue the same lande to him and to
 his heyres, this confyrmacyon make he
 fee simple in this case to him in the lande
 for this that those wordes, to haue and

to

to hold. &c. goeth to the land, and not to þ
 estate that he hath, so note þ diuersitie. &c
 ¶ Also if I let certayne land to a woman
 sole, for terme of her lyfe, the whiche taketh
 her a husband, and after I confirme the
 estate to the husband and to the wyfe, to
 haue and to holde the lande for terme of
 their two liues, in this case the husbände
 holdeth not ioyntly with his wyfe, but
 holdeth the right of his wife, for terme of
 his life, but this cōfirmaciō shal curre to
 þ husband by way of remainder for terme
 of his life, if he suruiue his wife, but if I
 let land to a woman sole for terme of ye-
 res which taketh an husbände, and after
 I cōfirm the estate to the husbände, and
 the wyfe, to haue and to hold the land for
 terme of bothe theyr lyues, in this case
 they haue ioynt estate in the franke tene-
 ment of the lande, for this that the wyfe
 had no franketenement before.

¶ Also yf my disseysoure graunte a rente
 charge out of the land. wherof he dysseis-
 sed me, and I reherling the sayd graunte
 do confirme the same graunt, and al that
 is compysed within the sayd grant, and
 after I enter vpon the disseysour, enquire
 in this case yf the lande be dyscharged of
 the rent ye or no.

¶ Also if a person of a church charge the
 glebe of his church by his dede, and after
 the

Capl. 9.

the patronce, and the ordinarie confyrme
the same graunt, and al that is comprised
within the same graunte, then the same
graunt shall be in his strengthe after the
purpose of the same graunt, but in suche
case it becometh, that the parron haue fee
simple in the auoulon, for if he haue estat
in the auoulon but for terme of lyfe, or in
taylor, then the grant shalbe good but du-
ring his lyfe, and the lyfe of the personne
that graunted it. &c.

¶ Also yf a man let land for terme of life
which tenant for terme of lyfe chargerh
the land with a rent or fee, and he in the
reuercion confyrmeth the same graunte,
this charge is good inough and effectual.

¶ Also if there be a perpetual chauntry,
wherof the ordinarie hath nothyng to
medle, nor to do, there the patrone of the
chauntry, and the chapleyn of the same
chauntry may charge the chauntry with
a rent charge in perpetuall.

Dedi et con
cessi.

¶ Also in some case these verbes, dedi et
cessi, haue the same effect in substance
and shal enure to the same entent, as this
verbe confirmant. As yf I be disseised of
a plough lande, and after I make such a
dede. &c. Sciatis presentes. &c. quod dedi
to the disseysour the sayd plough land. &c.
and I deliuer all onely the dede to hym
withouth lyuerie of seysyn of the lande
this

confyrmacion. fol. C. xxi.

this is a good confyrmacion, and as Cap. 6.
stronge in the lawe, as if he hadde in the
dede this verbe confirmaci. &c.

¶ Also yf I let lande to a man for terme
of yeres, by force of which he is possessed
and after I make to hym a dede. &c. quod
dedi & concessi. &c. of same lande to haue for
terme of his lyfe, & deliuer hym his dede
then by & by he hath estate in the land for
terme of his lyfe, & if I say in the dede to
haue and to hold to him and to his heires
of his body engendred, the he hath estate
in the taylor, & if I say in the dede, to haue
and to hold to him and to his heires, the
he hath estate in fee simple, for this shall
enure to hym by force of confyrmacion, to
enlarge his estate.

¶ Also if a man be disseised, and the dis-
seisor dieth seised, and his heire is in by
discent, and after the disseisee, & the heire
of the disseisour make ioyntly a dede of
seffement to an other in fee, and a luerie
of seisin vpon this is made, as to the heire
of the disseisour the dede, the
reuerentes passe by the same dede by way
of seoffement, & as to the disseisee that en-
sealeth the same dede, this shall not enure
but by way of confirmacion, but if the dis-
seisee in this case bring a wrytte of entree in
the per et cur, against the aliene of the heire
of the disseisour, enquire howe he shall

xx. i.

placade

Lytelton liber. 3.

Capl. 9.

The vtilite
te of pleas
page.

pleade that dede against the demaundant
if by way of confyrmacion oꝛ not. &c.

¶ And knowe ye this my chyld, that it is
one of the most honourable laudable, and
profitable thynges in oure lawe, to haue
the science of wel pleadyng in actions re-
alles and personals, and foꝛ this I coun-
sayle the in especyall, to set thy courage
and care to learne that. &c.

¶ Also if there be loꝛde and tenaunt, & the
loꝛde confyrmeth the state that þe tenaunt
hath in the tenementes, yet the seignoury
holly abyderth to þe loꝛde, as it was befoꝛe.

¶ In þe same maner it is, yf a man haue
a rēt charge, oꝛ a cōmon of pasture out of
a certayne land, & he confirme þe state, that
the tenant hath in the lande, yet abyderth
to the confyrmē the rent charge.

¶ In the same maner it is, if a man haue
common of pasture in the lande of an o-
ther, yf he confyrmē the state of the te-
naunt of the lande, nothyng shall departe
frome hym of his common, but this not-
withstandyng the common abyderth to
him, as it was befoꝛe. But if there be loꝛd
and tenaunt, whiche tenaunt holdeth of
his loꝛd by service of fealtye, and .xx. s. of
rente, yf the loꝛde by his dede confyrmē
the state of the tenant to hold by .xii. d. oꝛ
by a peny, oꝛ by an ob. in this case the te-
nant is discharged of al other services, &

¶

Confyrmacion.**Ro. C. xxviii****Cap. 9.**

Shall yelde nothyng to the lord, but that
that is compysed within the same confir-
macion, yet if the lord wyl by the dede of
confirmacion, that the tenant in this case
ought to yelde to him an hauke, or a rose,
perely at suche a feast. &c. this confirma-
cion is boyd, for this that he reserueth to
him a newe thing that neuer was parcell
of the seruices, befoze the confyrmacion;
and so the lord may abydge the seruyces
by such confirmacion, but he may not re-
serue to hym a newe seruyce. &c.

¶ Also if there be lord, meane, & tenant
and the tenat is an abbot that holdeth of
the meane by certayn seruices perely, the
which tenat hath no cause to haue acqui-
taunce agaynst his meane, for to byng a
wytt of meane. &c. In this case yf the
meane confyrm the state that the abbot
hath in the lande to haue and to holde the
lande into him, and to his successours in
frank almoigne, of fre almesse. &c. in this
case this confirmacion is good, and then
the abbot holdeth of the meane in franke
almoigne, and the cause is for this, that
no newe seruyce is reserued, for all the
seruyces specialle specified be extyncte,
and nothyng is reserued to the meane,
but the abbot shall holde of hym the land
and that was befoze the confirmacion: for
he that holdeth in franke almoigne ought

to do no bodily serupce, so that by such confirmation it appeareth, that the meanees shal reserve vnto him no new seruite, but that the lande shal be holden of him as it was before, and in this case the abbotte shal haue a writ of meane, if he be distrained in his default by force of the said confirmation, where percase he myghte not haue suche a writte before. &c.

¶ Also if he sealed of a byllayne, as of a villaine in gosse, and an other take he him out of my possession, clamping hym to be his villaine, where he had no ryght to haue him as his byllayne, and after he confirme vnto him the estate that he hath in my villaine, this confirmation semeth boyde, for this that none may haue possession of a man, as of a byllayne in gosse, but he that hath right to haue him as his villaine in gosse. And thus in so much that he, to whom the confyrmacion was made, was not seised of him, as of his byllayne at the tyme of the confyrmacion, such confirmation is boyde, but in this case if such wordes were in the dede, scilicet *me dedisse et concessisse tali .&c. tali villanum meum*, this is good, but this shal enure by force and waye of graunte and not by way of confirmation. &c.

¶ Also somtime these verbes *dedi et concessi*, enure by way of extinguisment of

the

Confymacion. fo. C. xxi.

Cap. 9.

the thing giuen oꝝ graunted. As if a tenāt holdeth of his lord by certaine rent, and the lord by his dede graunteth to the tenant, and to his heyres the rent. &c. this shal curre to þ tenāt by way of extingui-
shment, for bi thȝ grant þ rēt is extinct. &c.

In þ same maner it is, where one hath a rent charge oute of certaine lande, and he granteth to the tenant of the lande the rent charge. &c. And the cause is for this that it appeareth by the wordes of the graunte, that the wyll of the donoure is, that the ternaunte shal haue the rent. &c. and in so muche that he myghte not haue noꝝ perceyue any rente oute of his owne land, for this the dede shalbe vnderstande and taken for the moſte aduantage and auayle of the tenant that may be, and that is by way of extinguiſhment.

Alſo yf I lette lande to a manne for terme of yeres, and after I confirme his estate without mo wordes put in the dede by this he hath no greater estate, but for terme of yeres, as he had before, but if I releſe to him my right that I haue in the land without mo wordes put in the dede he hath estate of franktenement, and ſo mayſt thou my child vnderſtande dyuers great dyuerſities betwene releaſes and confirmacions.

If alſo if I beynge within age let lande

R. iii.

to

to one for term of .xx. yeres, & after he graunteth þe lād to an other for terme of .x. yerz so that grant is but parcell of his terme, in this case whē I am of ful age, yf I release vnto þe grantee of my lessee .&c. this release is boode, for this that there is no pruitic betwene him and me. &c. But if I cōfirme his estate, thē this confirmacion is good, but if my lessee graunt al his estate to an other, then my release made to the grantee is good and effectuell.

¶ Also if a man grant a rent charge oute of his lande to an other for terme of his life, and after I confirme his estate in the sayde rent, to haue and to hold to hym in fee tayle, or in fee simple, this confirmacion is boide, as to enlarging of his estate for this that he that confirmed had no reuercion in the rent. But if a man be leased in fee, of rent seruice, or of rēt charge and he grauntereth the rent to an other for terme of lyfe, and the tenant atturnereth, and after he confermeth the estate of the grantee in fee tayle, or in fee simple, this confirmacion is good, as to enlarge his estate, after the wordes of the dede of confirmacion, for this that he that cōfirmed the estate at the time of þe cōfirmaciō, had the reuercion of the rent. &c. But in this case also, sayd, where a man grauntereth a rent charge to an other for terme of

Attournement. Sol. C. xxvii.

Cap. 10.

of life, if he wyl that the graunte shal haue
estate in the tayle oꝛ in fee, it behouethe
him that the dede of the grant of the rent
charge foꝛ terme of lyfe be surrendꝛed oꝛ
cancelled, and then to make a newe dede
of such a rent charge, to haue and to take
to the grauntee in the tayle, oꝛ in fee. &c.
Ex paucis dictes plurima inferere potes.

Attournement. Cap. r.

Attournement is, if there be loꝛde
and tenant, & the loꝛde wyl graunt
by his dede & seruice of his tenant
to an other foꝛ terme of yeres, oꝛ foꝛ terme
of life, oꝛ in taile, oꝛ in fee, him behouethe
that the tenant attorne to the grantee in
the life of the grantour, by foꝛce and ver-
tue of the grant, oꝛ otherwise the grāt is
hoide, & attournement is none other thing
in effect, but when the tenant hath harde
of the graunt made by his loꝛde, that the
same tenant by woꝛde agree to the sayde
graunt, as to saye to the grauntee, I agree
me to the grant made to you, oꝛ I am wel
contente of the geaunte made to you. &c.
but the moꝛe common attournement is to
saye (yꝛ) I attorne to you by foꝛce of the
same graunte, oꝛ I become your ternaunt
&c. oꝛ to delpyer vnto the grauntee a peny
oꝛ a halfe peny, oꝛ a farthyng, by way of
attournement. &c.

Also if the loꝛd grant the seruice of his
tenaunte

tenant to a man, & after by a dede, hering
a later date, he grāterh the same seruices
to an other, and the tenaunt atturneth to
the seconde graunter: nowe the seconde
graunter hath the scrupce, & though that
after the tenant wyl atturne to the fyrst
graunter, this is clerely boyde. &c.

¶ Also if a man be seised of a maner whi
che maner is parcel in demesne, and par
cel in scrupce, if he wil aliene such maner
to an other, it behouethe that by force
of the alienacyon, that all the tenants
that holde of the alpenour, as of his ma
nour. &c. attourne to the alienee, oꝝ other
wyle the scrupces abyde contynually in
the alienour, excepte tenants at wil, foꝝ
it nedeth not that the tenants at wyl at
tourne vpon such alpenacion. &c. foꝝ this
that the same landes and tenemētes that
they holde at wyl, do passe to the alienee
by force of suche alpenacyon.

¶ Also if there be loꝝde and tenaunt, and
the tenant letteth the lande to a man foꝝ
termc of lyfe, the remainder to an other
in fee, yf the loꝝde graunte the scrupces
to the tenaunt foꝝ termc of lyfe in fee in
this case the tenant foꝝ termc of lyfe hath
fee in the seruices, but seruices be put in
suspence, during his life, but his heyres
shal haue the scrupces after his deith & in
that case it nedeth not any attournement
foꝝ

Attournement. fo. C. xxxiii.

fo: by the acceptaunce of the dede of hym **Capl. 10.**
that ought to attourne, this is attournement in him selfe. &c. but where þ tenant hath as great and high estate in the rene- mentes, as the lord hath in the seignoury in suche case if the lord graūt the service vnto the tenant in fee. this enureth by way of extinguisshement, *causa patet.*

¶ Also yf there be lord and tenant, and the tenant maketh a lease to one for terme of lyfe, or gyue the lande in the taile sauving the reuercyon vnto hym. &c. if the lord in suche case graunt the seignourye to an other, in this case it beho- ueth that he in the reuercyon attourne to the grauntee, and not to the tenant for terme of lyfe, or the tenant in the taile for this that he in the reuercyon is tenant vnto the lord, and not the tenant for term of lyfe, nor the tenant in the taile.

¶ In the same maner it is, where there is lord, mesne, and tenant, and the lord wyll graunte the seruyces of the mesne thowge that he make no mencyon of the mesne in his graūt, yet it behoueth þ the mesne attourne. &c. & not the tenant per auaile. &c. fo: ths that the mesne is tenant to hi. &c. But otherwyle it is, where cer- taine land is charged of a rent charge, or a rent secke: fo: in such case if he þ hath þ rent charge grāt it to an other it behoueth

R. b.

that

that the tenant of the frank tenement at
 fourtie to the graunter, for that that the
 franktenement is charged with the rent
 &c. and in the rent charge none auourye
 ought to be made vpon any person for the
 distresse taken. &c. but he shall auowe the
 takynge good and righteous, as in landes
 or tenementes so charged to a distresse. &c.
 ¶ Also if there be lord and tenant, and
 the tenant let his tenementes to an other
 for terme of life, the remainder to an other
 in fee, and afterwarde the lord granteth
 the services to an other. &c. and the tenant
 for terme of life attourneth, this is good
 inough, for this that the tenant for term
 of life, is tenant in this case to the lord.
 &c. & he in the remainder can not be cal-
 led tenant to the lord, as touchyng this
 entent, but after the death of the tenant
 for terme of life. Yet in this case yf he in
 the remainder die without heire, & lord
 shall haue the remainder by way of escheate
 for this & though the lord in suche case
 shalbe constrained to auowe vpon the ten-
 ant for terme of life. &c. yet al the holt te-
 nement, as touchyng al the estates of the
 franktenement, or of the fee simple, or o-
 therwise. &c. in such case thei be togither
 holden of the lord. &c. but not to make a-
 uourie vpon the al togither. M. 1. B. 6.
 ¶ Also if there be lord and tenant, & the
 tenant

tenant letteth the tenementes to a womā
foz terme of lyfe, the remaynder ouer in
fee, and the womā taketh a husband, and
after the lozde granteth the scrupes .&c.
to the husbāde and his heyres: in this
case the service is put in suspence durynge
the couerture. But yf the woman die, ly-
uynge the husbāde, the husbāde and his
heyres shall haue the rente of them in the
remainder .&c. And in this case it nederth
not to haue any attournement by woꝛde
.&c. foz this that þ husbāde, which ought
to attourne, accepteth the dede of the
grant of the seruices .&c. the which accep-
tance is an attournement in the lawe.

¶ In lyke maner it is, yf there be lozde
and tenant, and the tenant taketh a wife
and after the lozde granteth the scrupes
to the wyfe, and to her heyres, and the ba-
ron accepteth the dede: In this case after
the deathe of her husbāde, the wyfe and
her heyres shall haue the seruices .&c. foz
by the acceptaunce of the dede by the ba-
ron, this is a good attournement .&c. al-
be it that durynge the couerture, the ser-
upes were put in suspence .&c.

¶ Also yf there be lozde and tenant, and
the tenant granteth the tenementes to a
man foz terme of his lyfe, the remaynder
to an other in fee, if the lozde graunteth
the scrupes to the ternaunte foz terme of
lyfe

lyfe, in this case the tennaunt foꝛ terme of lyfe hath fee in þ̄ seruices. But þ̄ seruices be put in suspence durpng his lyfe. But yet the heyres of the tennaunt foꝛ terme of lyfe, shall haue the seruyces after his decease. &c. And in this case there needeth no atturment, foꝛ by the acceptance of the dede of him that ought to atturment. &c. this is atturment of it selfe. &c. But where the tennaunt hath as great estate in the tenementes, as the loꝛde hath in the seignourie, in suche case if the loꝛde graunte the seruyces to the tennaunt, in fee, this shall enure by way of extinguisshement, Causa patet.

¶ Also if there be loꝛd & tennaunt, and the tennāt maketh a lese to a man foꝛ terme of his life, sauving the reuercion to hym selfe if the loꝛd grant the seignourie to the tenant foꝛ terme of life in fee, in this case it behoueth that he in the reuercion atturment to the tenant foꝛ terme of lyfe by foꝛce of the same grant, oꝛ otherwise the grant is boide, foꝛ that that he in the reuercion is tenant to the loꝛd. &c. and yet he shall not holde of the tennaunt foꝛ terme of lyfe, durpng his lyfe, causa patet.

¶ Also if there be loꝛde and tennaunt, and the tenant holdeth of the loꝛd by twenty maner of seruices, and the loꝛd granteth his seignourie to an other, if the tennaunt

paye

paye in dede any parcell, oꝛ do any of the seruices to the grantee, þ is a good attournement of and foꝛ al the seruices thoughe that the tenantes entent was to attourne but of the same parcell, foꝛ this that the seignozie is an hole thyng, thoughe that there be dyuers maner of seruyces, that the tenaunt ought to do. &c.

¶ Also if there be loꝛde and tenant, and the tenaunt holdeth of the loꝛde by many maner of seruyces, and the loꝛde graunterh þ seruyces to an other by fyne, if the graunte sue a Scire facias, out of þ same fyne, foꝛ any parcell of the seruyces, and hath iudgemente to recouer, this iudgement is a good attournement in the law foꝛ all the seruyces.

¶ Also if the loꝛd of a rent seruyce, grant the seruices vnto an other, & the tenaunt attournerh by a penye, and after þ grantee dystraynerh foꝛ the rent behinde, and the tenaunte to him maketh rescous: In this case the graunte shall not haue assyle of the rent, but he shall haue a wꝛyte of rescous, foꝛ that the gyfte of the penye by the tenaunte was but by waye of attournement. But if the tenaunte had giuen vnto the grantee the sayde penye, as parcell of the rent, oꝛ an halsepenny, oꝛ a farthyng, by way of seisin of the rent, then this is a good attournement, & also it is a good

good seylpn to the graunte of the rente,
and then vpon such rescous the graunte
shall haue assyse. &c.

¶ Also yf there be many ioyntenautes,
whiche holde by certayne scrupes, and
the lord graunterh vnto an other the ser-
upes, and one of the sayde ioyntenantes
attourneth to the grantee, this is as good
as yf all had attourned, for this that the
seignourie is hole. Enquire.

¶ Also yf a man lette tenementes for
terme of yeres, by force of whiche lease
the lessee is sealed, and after the lessoure
graunterh by his dede the reuercion to an
other for terme of lyfe, or in taylor, or in
fec, it behoueth in such case þ the tenant
for terme of yeres attourne, or otherwise
nothing passeth to such a grantee by suche
a dede. And if in this case the tenant for
terme of yeres attourne to the graunte
thē by and by passeth the franktenement
to the grauntee by suche attournement
without any lyuere of seylpn. &c. for this
that if any lyuere of seisin shal or nedeth
to be made in such case, thē the tenant for
terme of yeres shalbe at tyme of the liuere
of seailpn oute of his possession, whiche
shulde be agaynst reason.

¶ Also yf tenementes be let to a man for
terme of life, or geue in the taile sauyn þ
reuercion

deuer
the r
belo
turn
tour.

¶ E
nen
of lif
if he
may
the l
tour
is g

¶ A
of y
of l
rene
hpo
yf h
his
nau
tern
att
ner
tur
ter
att
of
cau
is
ac

reuerſion. &c. if he in the reuerſion graunte the reuerſion to an other by his dede, it beloueth that the tenant of the lande attorne to þe grante in the lyfe of the grauntour, oꝛ otherwiſe the graunt is boyde.

¶ In the ſame maner it is, if land be gyven in þe taile, oꝛ let vnto a man foꝛ terme of lyfe the remainder vnto an other in fee if he in the remainder wyl graunt his remainder to an other. &c. if the tenant of the lande attorne in the lyfe of the grauntour, then the graunt of ſuche remainder is good, oꝛ otherwiſe not.

¶ Also if lande be let to a man foꝛ terme of yeres, þe remainder to an other foꝛ terme of lyfe, reſeruyng to the leſſour a certayne rent by yere, and lyuere of ſeyſin is made bpo this to the tenant foꝛ terme of yeres yf he in the reuerſion in ſuch caſe graunte his reuerſion to an other. &c. and the tenant that is in the remainder after the terme of yeres atturneth, this is a good atturment, and he to whome the reuerſion is graunted by force of ſuche atturment, ſhall diſtrayne the tenant foꝛ terme of yeres, foꝛ the rent due after ſuch atturment though the tenant foꝛ terme of yeres, neuer atturned vnto hym, & the cauſe is foꝛ this, that where the reuerſion is dependant vpon the ſtate of franchiſement, it ſufficeth that the tenant of the franchiſement

franktenement attorne vpon such grant
of reuerſiõ. &c. And it is to wylt, þ where
a leaſe for terme of yerres, or for terme of
lyfe, or a gift in the tayle is made to anye
man, reſeruing to ſuche a leſſoure or do-
mour certayne rent, if ſuch a leſſour or do-
mour grant his reuerſion to another, and
the tenant of the land attourneth, the rent
paſſeth to the grantee, though that in the
dede of the grant of reuerſion, no mency-
on is made of the rente, for this that the
rent is incident to the reuerſion in ſuche
caſe, and not conuerſo. &c. for if a man
wylle grant þ rent in ſuch caſe vnto an o-
ther, reſeruyng to hym the reuerſion of
the lande, though the tenant attourne to
the grantee, this ſhalbe but a rent ſeck. &c.
¶ Also if a man let lande vnto an other
for terme of life, and after ſuche leaſe he
confermeth by a dede the eſtate of the te-
nant for terme of life, the remainder to an
other in fee, and the tenant for terme of
life accepteth the dede, then is þ remain-
der in dede to him, to whome the remain-
der was giue or limited by þ ſame dede,
for by þ acceptance of þ tenant for terme
of lyfe of the ſame dede, this is agreement
of him, and ſo an attournemēt in law, but
yet he in the remainder ſhal haue none ac-
tion of waſt, nor other benefite by ſuche
remainder, excepte he haue þ ſame dede in
hys

Atturment.**fol. C. xxxvii.****Cap. 6.**

his hande, by whiche the remainder was graunted unto hym, and for this that in such case the tenant for terme of lyfe wyl certayne to him the dede, to the entent that he in the remainder shall haue no actyon of wast against him for this that he may not come to haue the possession of the dede &c. It shalbe good and a sure thig in such case for him in the remainder, that a dede indetted be made by him, that wyl make þ confirmation, and the remaynder ouer. &c. and that he that maketh suche confyrmacion, delyuer a part of the indenture to the tenant for terme of life, and the other part to him that hath the remaynder. &c. and than he by shewing of the part of the indenture may haue an actyon of wast against the tenant for terme of lyfe, and al other aduauntage that he in the remaynder may haue in such case.

¶ Also if two iointenantes be, which letteth land to an other for terme of lyfe, yel dyng to them and to theyr heyrres a certayne rent by ycare, in this case yf one of the two iointenantes in the reuercyon release to the other ioyntennaunte in the same reuercion, this release is good, and he to whom the relese is made, shal haue only the rent of the tenaunt for terme of life, & shal only haue a writ of wast against hym, though he neuer atturmed by force

S. i.**of**

of suche relese, and the cause is for the p^ris-
u^rie that ones was betwene the tenant
for terme of life, & hym in the reuercion.
¶ In the same maner, and for the same
cause it is, where a man letereth lande to
an other for terme of his lyfe, the remain-
der to an other for terme of his life, reser-
uing the reuercion to the lessoure, in this
case if he in the reuercion, release to hym
in the remainder. &c. and to his heyres al
his ryghte. &c. then he in the remainder
hath a fee. &c. & shall haue a writ of warr-
against the tenant for terme of life, with-
out any attournement of hym. &c.

¶ Also if a lease be made for terme of
lyfe, the remainder vnto an other in taile
the remainder ouer to the right heires of
the tenant for terme of life, in this case
if the tenant for terme of life, graunt his
remainder in fee, to an other by his dede
this remainder by and by passeth by his
dede without any other attournement,
and he remaineth tenant of the land, not
withstandyng the graunt. &c. For if any
ought to attourne in this case, it shuld be
the tenant for terme of lyfe. And it were
in bayne that he shuld attourne vpon his
owne graunt. &c.

¶ Also yf there be the lord and tenant
and the tenant holdeth of the lord by cer-
tain rent, and by knyghtes seruyce, if the
lord

Attournement.

fo. C. xxxviii

Cap. 10.

lozde grante the seruices of the tenant by
fyne, the seruices be by and by in the gra-
tee by force of the fyne, but yet the lozde
may not distrain for any parcel of his ser-
uices without attournemēt. But if the te-
nant dye his heire beyng within age the
lozd shal haue the ward of the body of the
heire, and of the lande. &c. howe be it that
he neuer attourned, for this that the sei-
gniozie was in the grauntee maintenance
by force of the fine. And also in som cases
if the tenant die without heire, the lozde
shal haue the tenancy by way of eschete.
¶ In the same maner it is if a man grant
the reuercion of his tenaunt for terme of
lyfe to an other by fine, the reuercion pas-
seth anon to the grauntee by force of the
fine, but the grauntee shal neuer haue ac-
tion of wast without attournement. &c.
But yet if the tenant for terme of life ali-
ene in fee, the grauntee may enter. &c. for
this þ the reuercion was in hym by force
of the fine, and such alienaciō was to his
disinheritance. But in this case where
the lozd graunteth the seruices of his te-
nant by fine, if the tenant die, his heires
being of ful age, the grauntee by the fine
shal not haue the relese, no; neuer shal di-
strain for the reliefe, except there had ben
an attournemēt of the tenant that died. &c.
for of such thinges that lyeth in distresse

D. ii.

upon

upon the whiche a wꝛtte of **Replegiare**
 is sued. &c. a man ought to auowe the ta-
 kyng good and ryghtuous. &c. and there
 ought to be atturment of the tennaunt,
 howe be it that the graunt of suche serui-
 ces be by fine. But to haue ward of lādes
 and tenemētes so holdē, during ꝑ nanage
 of the heire, or them to haue by way of es-
 chete, there nedethe nor any dyscrecc. &c.
 but an entre in the land by force of ryght
 of the seignory, that the grantee hath by
 force of ꝑ fyne. &c. and so se the diuersitie.
 ¶ Also if there be lord, mesne, & tenant, &
 the mene grantor by fine the seruices of
 his tenant. to an other in fee, & after the
 grantee dieth wout heire, now the serui-
 ces of the mesnaltie shal come & be eschete
 to the lord peramount by way of eschete
 if after the seruires of ꝑ mesnaltie be be-
 hind, in this case he ꝑ is lord peramount
 may distraine ꝑ tenant, notwithstanding
 that the tenant dyd yet neuer attourne, &
 the cause is for this, that the mesnaltie
 was in dede in the grantee by force of the
 fyne, and the lord peramount myght a-
 uowe upon the grantee for this that he
 was his tennaunt in dede, all be it that he
 shall not be compelled. &c. but if the gran-
 tour in this case dye without heire in the
 lyfe of the grauntee, then he shalbe com-
 pelled to auowe bypon the grauntee, and
 also

also in so much that the lord per amonut may not clapme the mesnaltie, by force of the graunt made by the fine leuied by the mesne, but by vertue of the seynourye per amonut, by way of eschete, he shall auowe vpon the tenaunt for the scrupces, that the mesne had. &c. al be it that the tenaunt byd neuer yet attourne.

¶ In the same maner it is, where the reuercion of the tenant for terme of lyfe is graunted by fyne to an other in fee and þ grauntec dyeth after without heyre, nor the lord hath the reuercion by way of eschete. And if after the tenat make wast the lord shall haue a wytte of waste agaynste hym, notwithstandinge that he neuer attourned, causa qua supra. But where a man claimeth by force of þ grant made by the fyne, that is to say, as heyre or assygne. &c. there he may not distrayne nor auowe, nor haue action of waste. &c. without attournement.

¶ Also in ancyente boroughes or cytyes where tenementes within the same boroughes or citiecs bene diuisable by testamēt, by þ custome, & the ble. &c. if in such borough or cytie a man be seised of rente service, or of rēt charg, & he deuiseþ such rente or scrupce to an other by his testament. and dieth. &c. in this case he to whō the deuise is made, maye dystayne the

S. iiii.

tenaunte

tenant for the rent or the services behind
 how be it that the tenant neuer atturnd
In the same manner it is where a man
 letteth such tenementes byuissables to an
 other for terme of lyfe, or for terme of
 yeres, and deuyleth the reuercion by his
 testament to an other in fee, or in fee talle
 and dieth, and anon after that the tenant
 maketh wast, he to whom the deuise was
 made, shal haue a writ of wast, how be it
 that the tennaunte neuer atturnd, and the
 cause is for this, that the wyll of the de-
 uysour made by the testament shalbe per-
 fourmed after the entent of the deuysour,
 and so the effect of this lieth vpon the at-
 turnyng of the tenant. &c. then percase
 the tenant wolde neuer atturnd. &c. then the
 wyll of the deuysour shulde neuer be per-
 fourmed, and therefore the deuysor shal
 bystrayne or haue an action of waste. &c.
 without atturndment. For if a man deuise
 such tenementes to an other by his testa-
 ment, habendum sibi imperpetuū, and dieth,
 and the deuisee entreth, he hath a fee sim-
 ple, causa qua supra. And yet if a dede of
 feoffement were made to hym by the de-
 uysour of the same tenement, habendum
 et tenendum sibi imperpetuū, if lyuere of
 seisin were neuer there by made he shal
 haue none estate but for terme of lyfe. &c.
Also yf a mā seised of a manour which
 is

which is parcel in demesne, and parcel in
 seruitces, & thereof be disseised, but the te-
 nant which holder of the manour neuer
 attourneth to þ disseisour, in ths case, how
 be it that þ disseisour dyeth seised. &c. and
 his heire is in by descent, yet may the dis-
 seisee distraine for the rent beynge behind
 and haue the seruite, but if þ tenant come
 to the disseisour, & say, we become your te-
 nantes. &c. or otherwise attourne to hi. &c.
 and after the disseisour dyeth seised. &c.
 the disseisee may not distraine for the
 rent, for this þ al the maner descendeth to
 the heire of þ disseisour, But yf one holde
 of me by rent seruite, whiche is a seruyce
 in grosse, and not by reson of my manour
 and an other that no right hath, claimeth
 the same rent, and receiueth and taketh þ
 same rent of my tenant by coaction of dis-
 seisee or by other for me, and so disseiseth
 me by takynge of suche rente, howe be it
 that suche a disseisour dye so seised by
 suche takynge of the rente, yet after hys
 death I may well distrayne for the same
 rent beynge behynde, befoze the death of
 the disseisour, and after his death, and þ
 cause is for this, that such is not my dis-
 seisour but by electiõ at my wyl, for how
 be it that he toke the rente of my tenaunt
 yet I maye at all tymes distrayne my te-
 nant for the rent behynd. &c. so that it is

to me, but as I wyl suffre the tennaunt to be, by as muche space of tyme behynde of payment to me of the samerent: for þ payment of my tenant to an other, to whome he ne ought to paye, is no dysceplin to me no: shall not put me out of my rent, with out my wyll & electyon, for howbeit that I may haue assise against such a taker. &c. yet this is at my election if I wil take hi as my disseisour o: not, so that suche dyscentes of rentes in gosse, ne putteth not out the lordes from they: distresse, but þ at eche tyme they may well dysstrayne for the rent behind. &c. And in this case if after the deceasse of him that so w:ongfully taketh the rent. I graunt by my dede the seruices to an other. & þ tenant atturneth this is good ynoughe, and the seruyce by such grant and atturnement, incorinent be in the grauntce. &c. But otherwyle it is where the rent is parcell of þ manour, and the dysseisour dieth seyled of the holo manour, as in the case aforesayde.

¶ Also if I be seised of a manour parcell in demesne, and parcell in seruyce, and I g:ue certayne acres of lande, parcell of the demesne of þ same maner to an other in the taylor, rendyng to me and to mine heyres, a certayne rente. &c. If in this case I be disseised of þ manour, and al the tenantes atturue and pay their rentes to the

the disseisour, and also the sayd tenant in
 tale pay the rent by me reserued to þ dis-
 seisour, and after the disseisour dye seised
 &c. and his heire entreth, and is in by dis-
 cente, yet in this I maye as well dys-
 trayne the tenaunte in the tale and his
 heyses, for the rente by me reserued upon
 the gyft, that is to say, for the rent being
 behynd, before the dyscent of the heyre of
 the dysseisour, & also for the rent, which
 chaunced to be behynde, after the same
 discent, notwithstandinge the dysce
 seised of the dysseisour. &c.

¶ And the cause is for this, that when a
 man gyueth tenementes to an other in the
 tale, sauving the reuercyon to him, and he
 upon the said gyft reserueth to him a rent
 or other seruices, al the rent and þ seruy-
 ces be incident to the reuercion, and whē
 a man hath a reuercion he can not be put
 out of his reuercyon by þ dede of a straun-
 ger, except that the tenaunt be put out of
 his state and possession. &c. for as long as
 the tenant in the tale and his heyses con-
 tynue theyr possession by force of my gyft
 so longe is the reuercyon in me and my
 heyses, and in so much that the rent and
 the seruices reserued upon such condyci-
 on, be incidente and dependant to the re-
 uercion, who so euer hath the reuercion,
 hath the same rent and the seruices. &c.

In the same maner it is, where I let
parcell of the demesne of þ maner, to an oð
ther for terme of life, or for terme of yerſ.
rendyng to me certayne rent. &c. all be it
that I am disseised of the maner. &c. & the
disseisoure dye. &c. and his heyre is in by
discent, yet I may distrayne for the rente
behynde, notwithstanding such dyscent. be
supra. For when a man hath made such a
gite in the taile, or such a lease for terme
of life, or for terme of yerces, of parcell of
the demesne of a maner. &c. saving the res
uercion to such donour or lessour. &c. and
afterward if he be disseised of þ maner. &c.
such reuercion after such disseisin is seu
red of the maner in dede, al be it, it is not
seuered in right. And so may ye se dyuers
titie, where there is a maner, parcell in de
mesne, and parcell in seruices, the which
seruices be parcell of the same maner, not
incidente to any reuercion. &c. or where
they be incident to a reuercion. &c.

Discontinuance: Cap. xi.

Discontinuance is an auncient word
in the lawe, and hath dyuers signi
fications. &c. But as to one entent it
hath such a signification, that is to say,
where a man hath aliened to an other cer
tayne landes or tenementes, and dyethe,
and an other had ryghte to haue the same
landes or tenementes, but he may not en
ter

ter in them by cause of such alpenaciō. &c.

¶ As yf an abbotte be seyled of certayne landes & tenementes in fee, & he alpeneth the same landes and tenementes to another in fee, oꝛ in fee taylor, oꝛ foꝛ terme of life, & the abbot dyeth, his succellour may not enter in the same landes oꝛ tenementes howe be it that he haue ryght to haue them, as in the right of his house, but he is put to his actyon to recouer the same landes oꝛ tenementes, which is called a wyrt. De in gressu sine assensu capituli.

¶ Also if a man be seyled of lande, as in the right of his wife, &c. and therof enfeoffeth another, &c. and dyeth, the wyfe ne may not enter, but she is put vnto his action, the whiche is called Cut in vita. &c.

¶ Also if the tenant in taylor of certayne lande, enfeoffe another therof, &c. & hath issue and dieth, &c. his issue may not enter in the land, howe be it that he hath right and title therto, but is put to his action, that is called Forzmedon in descender.

¶ Also if there be tenant in the taylor and the reuercion is to the donour and to his heires, if the tenant make a feoffement, &c. and dieth without issue, he in þe reuercion may not enter, but is put to his action of Forzmedone in the reuerter.

¶ And in the same maner it is where the tenant in the taile of certayne land is seised

Lyttelton liber. 3

Cap. 10.

sed, wherof the remainder is to an other in the taile, oꝛ to an other in fee, if the tenant in the taile alienethe in fee, oꝛ in fee rayle. &c. and after dyethe without issue, they in the remainder may not enter, but be put to they; wꝛit of Foꝛmedone in the remainder. &c. And foꝛ this that by foꝛce of such feoffement and suche alienacions in the cases afoꝛesayde, and in other lyke cases, they which haue title and right after the death of suche a feoffoure oꝛ alpeſſour, maye not enter, but be put to they; actions bt ly. therfoꝛe such feffementes & alienacions be called discontinuances.

¶ Also yf tenant in the rayle be dysseised and he releaseth by his dede to the disseisour and to his heires al the right that he hath in the same lande, this is no discontinuance, foꝛ this that nothyng of ryght passeth to the disseisour, but foꝛ terme of lyfe of the ternaunt in the rayle that made the release. &c. But by the feoffement of ternaunt in the rayle a fee symple passeth by the same feffement by foꝛce of a lyuete of seisin. &c. but by foꝛce of a release nothyng passeth, but the right that he may lawfully and ryghtfully release without hurt oꝛ damage to other persons, which thereto haue right after his decesse. &c. and so it is a greatte dyuersitie betwene a feoffement of the ternaunte in the taile and

Discontinuance. Fo. L. xliii.

Cap. 19

and a release made by the tenant in the
tail. But it is sayd, that if tenant in the
tail in this case release to the disseisor
and byndeth him and his heyres, to war-
rantise. &c. and dyeth, and this war-
rantie descendeth to his issue, then that is a
discontinuance, by cause of the warrantie.
&c. But if a man haue issue a son by his
wyfe, and his wyfe dyeth, and after he ta-
keth an other wife, and the tenementes be
giuen to him and his second wyfe, and to
the heires of their two bodies engendred
and they haue issue an other son, and the
second wife dieth, and after the tenant
in the tail is disseised, and he releaseth
to his disseisor al his right. &c. and byn-
deth him and his heires unto warrantise
and dieth, this is no discontinuance to the
issue in the tail by the second wyfe, but
he maye well enter. &c. for this that the
warrantie descended to his elder brother
that his father had by his first wyfe. &c.
¶ In the same maner it is, where tenementes
be descendable to the younger son
after the custome of borough Englyshe,
which ben tailed. &c. and the tenant in
tail hath issue two sonnes, and is dissei-
sed, & he releaseth to his disseisor all his
right in warrantise, & dyeth, the younger
son may enter upon the disseisor notwith-
standing the warrantie, for this that the
warrantie

Lyttelton liber. 2.

Capit. 11.

Warrantyle dyscendethe to the elder son
foz alway the warrantile dyscendethe. &c.
to him that is heire by the common law.

¶ Also if an abbot be disseised. and he re-
leaseth to the disseisour with warrantile
this is no discōtinuance to his successour
foz this þ nothyng passeth by his releas
but þ right that he hath during the tyme
that he is abbot, and this warrantile is
expired by his pꝛiuation, oꝝ by his death

¶ Also if a man be seyled in ryght of his
wife, and is disseised, and he releaseth. &c.
with warrantile this is no discōtinuāce
to the wife, yf she suryue her husbāde,
but that she may enter. &c. causa patet.

¶ Also if tenaunt in the taile be seised of
certaine lande, and he letteth the same
lande to an other foz terme of yeares, by
foꝛce of which lease the lessee is in posses-
sion, and after the tenaunt in the taile by
his dede releaseth al his right that he hath
in the same land, to haue and to holde, to
the lessee, and to his heyres foꝛ ever, this
is no discōtinuance, but after the decease
of the tenaunt in the taile his issue maye
well enter, foz this that by suche releas
nothyng passeth but foꝛ terme of lyfe of
the tenant in the taile.

¶ In the same maner it is, yf the tenant
in the taile confirme þ estate of the lessee
foꝛ terme of certaine yeares, to haue and

to

Discontinuance. Ho. C. plitt

Cap. xij

to hold to him and to his heires, this is a discontinuance, for this that nothyng passeth by such confirmacion, but the estate that the ternaunt in the taylor had for terme of his lyfe. &c.

¶ Also if tenant in taylor after suche lease graunte the reuercion in fee by his dede to an other, and wyl, that after the terme finished, that the same land remain to the grauntee, and to his heires for ever, and the tenant for terme of yerres attournerh this is no discontinuance. For such thinges which passe in suche cases fro the tenant in taylor only by way of graunte, or by confirmacion, or by release, maye passe nothyng to make estate to hym, to whom the graunt, or confirmation, or release is made, but only that that the tenant in the taylor maye ryghtfully do, and that is but for terme of his life. &c. For if I let land to a man for term of his life. &c. and the ternaunt for terme of life, let the same land to an other for terme of yerres. &c. and after my tenant for terme of lyfe graunte the reuercion to an other in fee, and the tenant for terme of yerres attournerh, in this case the graantee hath not in the franktenement estate, but for terme of the lyfe of his grantour. &c. and I that am in the reuercion of the fee simple, maye not enter by force of the grant of the reuercion made
by

Capit. 10.

by my tennaunt for terme of lyfe, for this that by suche graunte my reuercion is not discontinued, but alwayes it abydethe to me as it was befoze, notwithstandinge such graunt of the reuercion made to the grauntee, to hym and to his heires. &c. for this that nothyng passethe by force of suche graunte, but the estate that the grauntour hathe. &c.

¶ In the same maner it is, yf the tenant for terme of life by his dede confyrmeth the estate of his lessee for terme of yeares, to haue and to hold to him and to his heires or release to his lessee and his heires, yet the lessee for terme of yeares hathe not estate but for terme of the lyfe of the tenant for terme of lyfe. &c. But otherwyle it is when a tenant for terme of lyfe, maketh a feoffement in fee, for by such feoffement the fee simple passeth. for tenant for terme of yeres may make a feoffement in fee, and by his feoffement, the fee simple shal passe & yet he had not at the tyme of þe feoffement made, but only estate for terme of yeres.

¶ Also yf tennaunt in taylor, graunte his lande to an other for terme of lyfe of the same tenant in taile, and lyuerie of seisin to him is made. &c. and after by his dede releaseth to the tenant and to his heires, al the right that he hath in the same land in this case the estate of the tenant of the lande

lande is not enlarged by force of suche release, for this that when the tenant hath the estate in the land for terme of the life of the tenant in taile, then he hath all the right that the tenant in taile might right fully graunt or release, so that by such release no right passeth, in so much that his right was gone before.

¶ Also if renaunte in the taile by hys dede graunt to an other al his estate that he hath in the tenementes in taile to hym to haue and to holde all his estate to the tother, and to his heyes for euer, and deliuereth to him seisin accordyng. In this case the tenant, to whom the alienacyon was made, hath none other estate but for terme of lyfe of the tenant in taile. And so it may wel be proued, that the renaunte in the taile may not graunt ne alene ne make any rightful estate of the franktenement to an other person, but for terme of his own life. &c. For if I gyue certayne land in the taile to a man, sayyng the reuercion to me, and after the tenant in the taile enfeofferth an other in fee, the feoffee hath no ryght estate in the tenementes for two causes. One is for that by such feoffement my reuercion is discontinued which is a wong act, and not a rightful act. An other cause is, for the tenant dye and his issue sueth a wryt of Formedone

agaynst the feoffee, the w^{yt} shal say, and also the declaracion þ^t the feoffee w^z ongef-
fully bi defozced. *sc.* Ergo if he of w^zong
h^{ym} defozced. *sc.* he had no ryghte estate.
¶ Also yf lande be leite to a manne for
terme of his lyfe, the remaynder to an o-
ther in tayle, yf he in the remainder wyl
graunte his remainder to an other in fee
by his dede, and the remaunte for terme
of lyfe atturnerhe, this is no discontinu-
ance of the remaynder.

¶ Also if a man hath rent seruice, or rent
charge in tayle, and he graunreth the sayd
rent to an other in fee, and the tenant at-
turnerh, this is no discontinuance. *sc.*

¶ Also if a man be tenant in the taile, of
auouson in grosse, or of cōmon in grosse if
he by his dede wyl graunt the auouson or
the common to an other in fee, this is no
discontinuance, for in such cases þ^t graun-
tee hath no estate but for terme of lyfe of
þ^t tenant in the taile, that made the grant.
sc. Note wel that such thinges, as passe
by way of grant by dede, made in the cos-
tre without l^yuere there. *sc.* such graunte
maketh no discontinuance, as in the cases
aforesayd or in other ly^{ce}. *sc.* and how be
it that such thinges be granted in fee, by
fyne leuped in the kynges courte. *sc.* yet
this maketh no discontinuance. *sc.*

¶ Also if I giue lande to an other in the
tayle

taylor, and he letteth the same lande to an
 other for terme of yeres, and after the les-
 sour granteth the reuercion to an other in
 fee, & the tenant for terme of yeres attur-
 neth to the grantee, and the terme is expi-
 red during the life of the tenant in taylor,
 by the which the grantee entreteth, & after
 the tenant in taylor hath issue and dieth, in
 this case this is no discontinuance, nor with-
 standynge that the graunte was executed
 in the life of the tenant in taylor, for this
 that at the time of the lease made for terme
 of yeres, no new fee simple was reserved
 in the lessour, but the reuercion abydeth
 in hym in the taylor, as it was before the
 lease made. But if the tenant in taylor make
 a lease for terme of lyfe of the lessee. &c.
 in this case the tenant in the taylor hath
 made a newe reuercion of fee simple in
 hym, for this that when he made a lease
 for terme of lyfe. &c. he discontinued the
 taylor by force of the same lease, and also
 he discontinued my reuercion. &c. and it
 behoueth that the reuercion of the fee sim-
 ple be in some person in suche case, and it
 may not be in me, which am donour, in so
 muche that my reuercion is discontinued
 ergo it behoueth that the reuercion of the
 fee be in the tenant in the taylor, that dis-
 continued my reuercion by suche lease.
 &c. And yf in this case the tenant in

Hyttelton liber. 3.

Capl. 11.

in the taile, graunt by his dede the reuer-
cion in fee to an other, and the renaunte
foz terme of lyfe atturmerh .&c. and after
the tenaunt foz terme of life, dieth, liuing
the tenaunt in the tayle, and the grantee
of the reuercion entreceth .&c. in the lyfe of
the tenant in the tayle, then this is a dis-
continuance in fee, and if after þ tenante
in the taile dieth, his issue may not enter,
but he is put to his wyrtte of Forzmedone
and þ cause is foz this, that he that hath
the graunt of suche reuercion in fee sym-
ple, hath the seisin and executyon of the
same landes and tenementes, to haue to
hym and to his heyzes in his demesne as
of fee, in the lyfe of the tenant in taile. &c.
And this is by force of the same graunte
of the tenaunt in tayle. &c.

¶ In the same maner it shalbe, if in the
case afoz said, the tenant foz terme of lyfe
after the atturment of the grantee had
aliened in fee, and the graunte had entred
by fozrayture of his estate, and after the
tenant in taile had dyed, this is a discon-
tinuace, causa qua supra. But in thys case
if tenant in taile, that granted the reuer-
cion. &c. dye, lyuing the tenant foz terme
of lyfe, and after the tenaunt foz terme of
lyfe dieth, & after he to whome the reuer-
cion was granted, entreceth .&c. then thys
is no discontinuance, but þ the issue of the
tenant

Discontinuance. Fo. C. xlvi.

Cap. vi.

tenant in the taile may wel enter bp̄ the
grantee of the reuercion, for this that the
reuercion þ̄ the grantee hath, was not ex-
ecuted in the life of the tenant in taile. &c.
And so there is great diuersitie, when the
tenant in þ̄ taile maketh a lease for terme
of yerres, and where he maketh a lease for
terme of life, for in þ̄ one case he hath the re-
uercion in the taile, & in the other case he
hath a reuercion in fee. For if land be gy-
uen to a man & to his heyres males of his
bodye engendred, the which hath issue. ii.
sonnes, & the elder son hath issue a dought-
ter and dieth, & the tenant in taile, maketh
a lease for terme of yerres, & dieth, now the
reuercion descendeth to the yonger sonne,
for this that the reuercion was but only
in the taile, and the yonger son is heyre
male. &c. but yf the ternaunte in taile had
made a lease for terme of lyfe. &c. & dyed,
nowe the reuercion descēdeth to þ̄ dought-
ter of the eldeste sonne, for this that the
reuercion is in fee symple, & the dought-
ter is heyre generall. &c.

Also if a man be seised in taile of lādes
deupfables by testament. &c. and he deu-
seth this to an other in fee, and dieth, and
the other ētreth. &c. this is no discōtynu-
ance for this þ̄ no discōtinuāce was mad
in the lyfe of the ternaunt in the taile. &c.

Also yf lande be gyuen in taile, sa-
yng

T. iii.

uyng the reuercion to the donour, and al-
ter the tenant in taile by his dede enfeof-
feth the donour in the same lande, to haue
and to holde to him and to his heyres for
euer, and despyreth to him sepsyn accor-
dyng. &c. this is no discontinuance, for
this that none may discontinue the state
in the taile, if that he do not dyscontinue
the reuercion of him, whiche had it in the
reuercion. &c. or in the remainder, yf any
hath it in þ remainder. &c. And in so much
that by such feoffement made to þ donour
the reuercion then beyng in hym, his re-
uercion is not dyscontinued nor altered,
&c. this feoffement is no discontinuance. &c.
¶ In the same maner it is, where landes
be giuen to a man in taile, the remaynder
to an other in fee, and the tenant in taile
enfeoffeth him, whiche is in the remayn-
der, to haue and to hold to hym and to his
heyres, this is no discontinuance, causa
qua sup^a. &c.

¶ Also if an abbot haue a reuercion or a
rent seruice, or rē charge, and wyl grant
one of the to an other in fee, and the tenat
attourneth. &c. this is no discontinuance.

¶ In the same maner it is where an ab-
bot is seysed of auouson, or of such thyn-
ges that passe by way of graunt without
lyuere of sepsyn. &c.

¶ Also if there be grandfather, tenant in
the

Discontinuance. Fol. C. xlviii.

Cap. iij.

the taile, father and son, and the graunde
father is disseised bi the father, and the fa
ther maketh a feoffemente in fee without
warrantise and dieth: and after the grād
father dieth, the son may wel enter vpon
the feoffee, for this that this was no dis
continuance, in so much that the father
was not seised by force of the taile at the
time of þ feoffemēt. &c. but was seised i fee
by þ disseisin made to þ graundfather. &c.

¶ And it is to be knowen, that there be
some discontinuances for terme of lyfe, as
if tenaunt in taile make a lease for terme
of life, sauynge the reuercion to hym, as
longe as the reuercion is to the tenant in
taile, or his heyres, it is no discontinuance
but durynge the life of the tenāt for terme
of life. &c. And if such tenant in taile giue
the tenemētes to an other in taile sauynge
the reuercion, then this is a dyscontynua
nce durynge þ second taile. &c. But where
the tenāt in taile maketh a lese for terme
of yerres, or for terme of life, the remain
der to an other in fee, and deliuereth ly
uerie of seisin accoꝝdynge, this is dyscon
tinuance in fee, for this that the fee siple
passeth by force of the liuerie of seisin. &c.
¶ And it is to wit, that some such disconti
nuances be made vpon condicion. &c. and
for this that þ condicions be broken. &c. or
for other causes after þ course of the law.

¶. iiii.

suche

such estates be defeted, then be the discontinuances defeted, and do not take away any man by force of them from his entree, as if a husbände be seised of certayne land in ryght of his wyfe, and maketh a feoffement in fee bpon condition, and dyeth, if the heire after enter bpon the fesse for the condicion broken, the entree of þ wyfe is lawfal bpon the heyre, for this that by the entree of the heyre, the discontinuance is defeted, as it is adiudged.

¶ Also if a womā inherited, take an husbände, which husbände is within age, and the husbände maketh a feoffement in fee of the tenementes of the wyfe, and dieth, it hath ben questioned, if the wise may enter or not. And it semeth to some mē, that the entree of the wise after the death of her husbände shalbe leful in this case, for whē the husbände made such a feoffement. 3c. he myght well enter not withstandinge suche feoffement durynge the couerture, and he might not enter in his owne right but in þ right of his wyfe. 3c. Ergo such ryght that he had to enter in the ryght of his wyfe. 3c. that ryght of entree abyderth to the wyfe after his deccase.

¶ And it hath ben sayde, that yf two iointenantes beyng within age, make a feoffement in fee, and one of the chyldren dyeth, and that other suruiueth, in so much that

Discontinuance. Fo. C. xlii.

Capl. ii.

that both childzen might enter jointly in
theyr lyues, this right of entre groweth
all to him that suruiveth, and so he may
entre into the hole. &c. but the h. yze of the
husbande that made the feoffement with
in age may not enter. &c. for this that no
ryght descendeth to suche an heyre in the
case aforesayd, for this that the husband
had neuer any thyng but in the ryght of
his wyfe. &c. And also when a childe ma
keth a feoffement being within age, this
shall neuer greue noz hurte him, but that
he maye well enter. &c. for this shulde be
agaynst reason, & such a feoffement made
by him, that was not able to make such a
feoffement, shall greue oz hurte an other
to tolle them of theyr entrees. &c. And for
these causes, it semeth to some, that after
the death of suche an husbande so berunge
within age at the tyme of the feoffement.
&c. that his wyfe may wel enter. &c.

¶ Also yf a woman inheritryce takethe
an husbande, and hath issue a son, and the
husbande dyeth, and she takethe an other
husbande, and that seconde husbande let
teth the lande, that he hath in the ryghte
of his wyfe, to an other for terme of his
lyfe, and after the wyfe dyeth, and after
the renant for terme of lyfe surrendreth
hys estate to the second husband. &c. En
guyse if the son of the wyfe may enter oz

T. b.

not

Lyttelton liber. 3.

not in this case upon the second husband duringe the lyfe of the tenaunt for terme of lyfe. &c. But it is clere lawe, that after the death of the tenant for terme of lyfe, the sonne of the wyfe maye wel entre, for this that the discontinuance that was made all onely for terme of lyfe is determyned by the death of the same tenaunt for terme of lyfe. &c.

¶ Also it is to be knowen, that an estate tailed, may not be discontinued, but wher he that made the discontinuance was once seyled by force of the taylor, soo that it be not by reason of warrantie. As yf there be graundefather, father, and son, and the grandfather is tenant in taile, and is disseised by the father which is his son, and the father maketh a feoffemente of thys without warrantie, and dieth, and after the grandfather dieth, the son maye well enter upon the feoffee, for thys that this is no discontinuance, in so much that the father was not seised by force of the taile at the time of the feoffement. &c. but was seised in fee, by the disseisin made to hys graundfather. &c.

¶ Also yf tenant in taylor make a lease to an other for terme of lyfe, and the tenant in taylor hath issue and dyeth, and the reuercion descendeth to his issue, and after the issue graunterh the reuercyon to hym

him descended to an other in fee, and the
tenant for terme of life attourneth. &c. and
is seised in fee, in the life of the issue, and
afterwarde the issue in the taile hath issue
a son, and dieth, it semeth that this is no
discontinuance to the son, but that the
son may enter. &c. for this that his father
to whome the reuercyon of the fee simple
descended. &c. hadde not at any tyme any
thyng in the lande by force of the tayle.
&c. for if a mā seised in right of his wife
let the same land to an other for terme of
his lyfe, now is the reuercyon of the fee
simple in the husbände. &c. and if the hus-
band die, liuing the wife, and the renante
for terme of life, and the reuercion descen-
deth to the heyre of the husbände, and he
graunterhe the reuercyon to an other in
fee, and the tenant attourneth, and after
the tenant for terme of lyfe dieth, and the
grantee of the reuercion entreteth: in this
case this is no discontinuance to the wyfe
but the wyfe maye well enter vppon the
grantee. &c. for this that the grantoure
had nothyng at the tyme of the graunt in
the right of his wyfe, when he made the
grant of the reuercion. And thus it semeth
thoughe that men whiche be inheritable
by force of the tayle were neuer seised by
force of the same taile, that yet such scol-
limentes of graunces by theym made
without

Without cause of warrantie, is no discontinuance to theyr issues, after theyr decease, but that theyr issues may wel enter &c. all though that theyr which made such grantees in theyr liues, were forbarrred to enter by theyr owne dede. &c.

¶ And if tennant in taylor hath issue two sonnes, and the eldest dysseiseth his father, and maketh a feoffment in fee, without clause of warrantie, and dyeth without issue, and after the father dieth, yonger son may well enter upon the feoffee, for this that the feoffment of his elder brother can not be discontinued, for this that he was neuer seised by force of the taylor. For it semeth agaynst reason, that by a matter in dede. &c. without clause of warrantie, that a man may discontinue a taylor. &c. whiche was neuer seised by force of the same taylor.

¶ In the same maner it is, if a man make a lease for terme of lyfe, the remaynder to an other in taylor, and he in the remainder dysseiseth the tennante for terme of lyfe, and maketh a feoffment to an other in fee, and dyeth, and after the tennante for terme of lyfe dyeth: it semeth in this case, that he in the reuersion may well enter upon the feoffee, for this that he in the remaynder, which made the feoffment, was neuer seised in the taylor
by

by force of the same remainder. &c.

¶ Also if there be lord and tenant, and the tenant giveth the tenementes to an other in tale, and after þ tenant in tale maketh a lease to a man for terme of lyfe &c. saupnge the reuercyon. &c. and after granteth the reuercyon to an other in fee and the tenant for terme of life attorneth &c. and after the grantee of the reuercyon dieth without heyre, now the same reuercyon cometh to the lord by way of eschete: If in this case the tenant for terme of life dieth, and the lord by force of his eschete, entreteth in the life of the tenant in tale, and after the tenant in tale dieth, it semeth in this case, that this is no discontinuance to the issue in the tale, nor to him in the remainder, but that he may well enter, for this that the lord is in by way of eschete, and not by the tenant in the tale. &c. But it shuld be otherwise, yf the reuercyon hadde bene executed in the grauntee, in the lyfe of the tenant in the tale, for the had the grauntee ben in the tenementes by the tenant in the tale. &c.

¶ Also if the persō or vicar of a church alieneth certayne landes or tenementes parcel of his glebe. &c. to an other in fee, and dyeth, or resigneth. &c. his successor may well enter, notwithstanding such alienation, as it is sayd in An. 2. B. 4. termino

Michaels

Lytelton liber. 3.

Capit. 21.

Michaelis, quod sic incipit: Nota quod dictum fuit pro lege, in a writ of accompt brought by the master of a colledge, against a chapleyne, that yf a person oꝝ a vicar grant certayne landes that is of the right of his church, to an other, and dieth oꝝ chaungeth, that his successor may enter. And I thynke that the cause is for this, that the person oꝝ vicar that is seased, &c. as in the right of his church, hath no right of fee simple in the tenementes, and the right of the fee symple of this abyderh in any other person. And for this cause his successor may well enter, notwithstandinge suche alienacion, &c. for a byshop may haue a writ of right of tenementes of the right of his bishopric, for this that the ryght of fee simple abyderh in hi & his chapter. And a dean may haue a writ of right, &c. for this that the ryght abydethe in hym and his chapyter, and an abbotte maye haue a writte of ryghte for thys that the right abyderh in him and in his couent. And a maister of an hospital maye haue a writte of ryght, for this that the ryght abyderh in him, and in his brotheren. &c. Et sic de aliis in casibus consimilibus. &c. But a person oꝝ a vicar may not haue a writ of ryght, &c. but the hyghest writte that they maye haue is a writ De iuris beneficii, the which is a greate profe,

De iuris beneficii

Discontinuance. Fo. C. li.

profe, that the ryghte of fee simple is not in them, no: in no other. &c. but the ryght of fee simple is in abyaunce, that is to say all onely in the remembraunce, extendement, and consyderacyon of the lawe. &c. for me semeth that such a thyng in such a ryght, that is sayd in dyuers booke to be in abyaunce is as much to say in latin. scilicet res vel tale rectum, que vel quod non est in homine, ad tunc superstitere, sed tantummodo est, et consistit in consyderacione et intelligencia leges. &c. et quida alii dicunt talem rem aut tale rectum fore in nubibus. &c. But I suppose that they vnderstande by these wordes in nubibus, &c. as I haue sayde befoze.

Cap. xii.

Fee simple in abyaunce.

Also yf a personne of a churche dye, nowe the franketenement of the glebe of the personage is in no man, durynge the tyme that the personage is boyde, but is in abyaunce, that is to saye, in consyderacyon and intelligence of the lawe tyll an other be made person of the same churche, and immediatelly when an other is made personne, the franketenement is dede is in him as succelloure.

Also some men peraduenture wyll argue and saye, that in so much that the personne with the assente of the patrone and ordynarye maye graunte a rent charge oure of the glebe of his personage in fee,
and

Objection.

and so charge the glebe of the personage
perpetually, ergo they haue fee simple, or
two, or one of them hath fee simple, at
the least. .sc. to this it may be aunswered
that it is a p^rinciple in the lawe, that of
euerie lande there is a fee simple in some
man, or els the fee simple is in abia^cce. .sc.
And an other p^rinciple is, that euerie land
of fee simple. .sc. maye be charged with a
rent charge in fee, by one way or by an o
ther. .sc. and when such rent is graunted
by the deed of the person, and the patrone
and the o^rdinarie in fee, none shall haue
no p^reiudice or losse by force of such gr^ate
but the grantours in their liues, and the
heires of the patron, and p^r succ^essours of
the o^rdinarie after their deceases, & after
such charge, if the person dye, his succes
sour may not come to the sayd churche to
be personne of the same churche by the
lawe, but by p^resentment of the patron,
and admission, and inst^ruction of the o^r
dynarye. .sc. And so: this cause it beho
uereth that the succ^essour holde hym con
tent and agreed with that which his pa
tron and o^rdinarie lawfully haue done
before. .sc. But this is no p^rofe, that the
fee simple. .sc. is in the patrone and the
o^rdinarie, or in any of theym. .sc. but the
cause that suche rent charge is good, is
for this that they which had entrees. .sc.

in the sayde church, that is to say, the parson after the lawe temporal, and the ordinary after the lawe spiritual, were assented, or parties vnto such a charge. &c. and thus semeth the very cause that such glebe may be charged in perpetuall.

¶ Also yf ternaunte in taylor hath issue and is dysseised, and after by his dede he releaseth al his right to the dysseisor, in this case no ryght of taylor may be in the tenant in taylor, for this that he hath released all his right, and no right may be in the issue in the taylor, durynge the lyfe of his father, and such ryght of inherytaunce in the taylor, is not all utterly expyred by force of such release. &c. ergo it behoueth that such right abide in abeyance. &c. vt supra, during the lyfe of the tenant in taylor which released. &c. and after his deceasse, then is such right mayntenable in the issue in dede. &c.

¶ In the same maner it is, where tenant in taylor granteth al his estate to an other, in this case the graunte hath not estate but for terme of lyfe of the tenant in taylor and the reuercion of the taylor is not in the tenant in taylor, for this that he hath granted all his estate of his ryght. &c. And yf the ternaunt, to whome the graunte was made, make wast, the tenant in taylor shall neuer haue a writte of wast, for this that

no reuercion is in him, but the reuercion
and the inheritaunce of the tale, during
the life of the tenant is in abiaunce, & is to
saye, onely in the rememb:ance, consp:ec-
tation, and intelligence of the lawe.

¶ Also if a byshop aliene landes, whiche
be parcel of his byshopriche, & dieth, this
is a discōtinuāce to his successour for ths
that he maye not entre, but is put to his
writ De ingressu sine assensu capituli. &c.

¶ Also if a Deane aliene lande, parcel of
his deanerie, and by th, his successour ne
may not enter, but he may haue a writ de
ingressu sine assensu episcopi et capituli.
&c. But if the deane and the chapter haue
lande to them, and to they: successours in
common. &c. howe be it & the deane aliene
such landes, his successours may wel en-
ter, for this that the franketement at &
tyme of the alienacion was as wel in the
chapter, as in the deane. But where the
deane is sole seised, as in right of his dean-
ry, then such alienacion is a dyscontinua-
nce to his successour, as it is aforesayd.

¶ Also some men wyl argu and say, that
if an abbot & his couent be seised in they:
demesne as of fee, of certayne lande to
them, and to thei: successours. &c. and the
abbot without assent of his couent, alpe-
neth the same land vnto an other, and di-
eth, this is a discontinuance to his suc-
cessours

cessours, &c. and by the same reason they
wyl say, that where a dean and a chapp-
ter be leysed of certayne landes to theim
and to their successours, if the deane alien
the same landes, &c. this shalbe a discon-
tinuance to his successours, so that his suc-
cessoure may not enter, &c. to this may be
answered, that there is great dyuersitye
betwene the sayd two cases. For whē the
abbot and the couent be leysed, &c. yet yf
they be disseised, the abbot shal haue as-
sise in his owne name, without nampyng
of his couent, &c. And if a man wyl sue a
recipe quod reddat, of the same landes
when they be in the handes of the abbot
and his couent, it behoueth, that such an
action real be sued against the abbot one-
ly without nampyng of the couent, &c. for
this that all they bene deade persons in
the lawe, saue only the abbot that is soue-
raygne, &c. and this is bycause of the so-
uerayntie, &c. for els he shulde be as one
of the other monkes of the couent, &c.

But the deane & the chappiter be no deade
persons in the lawe, &c. For eche of them
may haue an actiō by hī selfe in diuers ca-
ses, & of such lādes or tenementes, which
the deane & chappiter haue in common, &c.
if they be disseised, the deane and hī chapi-
ter shal haue assise, & not the deane alone
&c. and if an other wyl haue an actiō real

of such landes oꝝ tenementes against the
deane. &c. it behoueth hym to sue against
the deane and chapter, & not agaynſt the
deane alone. &c. and ſo appereth great di-
uerſyrie betwene theſe two caſes. &c.

¶ Allo if the maſter of an hoſpital diſco-
tinue certayne lande of his hoſp yall, his
ſucceſſours maye not enter, but he is put
vnto his wyte. De in gressu ſyne aſſenſu
coſcarrũ et coſoꝝũ. &c. and al ſuch wyte-
res do plainely appere in the regiſter. &c.

¶ Allo yf lande be let to a man foꝝ terme
of hyſ lyfe, the remaynder to an other in
the tayle, ſauynge the reuerſyon to the
dyſſeyſour, and after he in the remain-
der dyſſeyſeth the renaunte foꝝ terme of
lyfe, and maketh a ſcoffement to an other
in ſec, and after dyeth without iſſue, and
the tenaunte foꝝ terme of lyfe dieth, it ſe-
meth in this caſe, that he in the reuerſyõ
may well enter vpon the ſcoffee, foꝝ this
that he in the remaynder, that made the
ſcoffement, was neuer ſeiſed in the tayle
by foꝝce of the ſame remaynder. &c.

Remytter. Capi. xii.

Remitter is an ancient terme in the
lawe, and it is wherc a man hath
two tytles to landes oꝝ tenementes
that is to ſaye, one of an elder tytle, and
an other of a latter tytle & he cometh to
the lande by the latter tytle, yet the lawe
adiudgeth

Remitter
by reason
of descent

adiudgeth him to be in, by force of the elder tyle, for this that þ elder tyle is the more sure tyle, and the more worthy tyle, and then when a man is iudged in by force of the more elder tyle, this is unto him sayde, a remitter, for this that þ law shall admytte hym to be in the lande, by the elder tyle. As yf the tenaunte in the tyle dyscontinue the tyle, and after he dyscesse his dyscontinue, and so dieth seised wherby the tenementes descend to his issue or cousin inheritable by force of the tyle, in this case, this is to hym, to whome the tenementes descende whiche hath ryght by force of the tyle & remitter in the tyle, for that that the lawe shall put and adiudge hym to be in by force of the tyle, which is his elder tyle, for if he shalbe in by force of the dyscent, then the dyscontinue maye haue a writ of entre upon the disseisin in the per against hym, & recouer the tenementes and hys damages, &c. But in so much that he is in his remitter by force of the tyle, the tyle & the interest of the dyscontinue is all utterly adnulled, and defecard, &c.

¶ Also if tenant in the tyle enscoffe his son or his cousin inheritable by force of the tyle in fee, the whiche son or cousin at the tyme of the scoffement is within age, and after the tenant in the tailed dieth

and he to whom the feoffement was made is his heire by force of the tyle in y^e taylor this is a remitter to the heire in the taylor to whom the feoffement was made. For howe be it, that during the lyfe of the tenant in the taylor, that made the feoffement, such heire shalbe adiudged in by force of the feoffement, yet after the deathe of the tenant in the taylor, the heire shalbe adiudged in by force of the taylor. &c. and not by force of the feoffement, for thowge that such an heire was of ful age at the tyme of the deeth of the tenant in the taylor, that made the feoffement, this maketh no matter, yf the heire were within age, at the tyme of the feoffement made to hym. And if such an heire beynge within age at the tyme of the feoffement, cometh to ful age, lyving the tenant in taylor that made the feoffement, and so being of ful age, he chargeth by his dede the same lande with a comon of pasture, or with a rent charge and after the tennant in the taylor dyeth, now it semeth that the land is discharged of the comon and of the rent, for this that the heire is in by an other estate in the lande, then he was at the tyme of the charge made, in so much that he is in by remitter by force of the taylor, and so the estate that he had at the tyme of y^e charge is utterly defeated. &c.

Also

Also a principal cause is, why suche an heyre in the cases aforesaid, and other cases semblable shal be said in his remptter is for this, that there is no persō agaynst whō that he may sue his wyf of forme done, for against him selfe he may not sue and he may not sue agaynst none other, for none other is tenāt in the fran'stenemēt and for that cause the lawe adiudged him in his remptter, that is to save, in suche plyte, as if he had lawfully recovered the same lande agaynst an other. &c.

Also if land be taylor to a man and his wyfe, and to the heyres of theyr two bodyes engendred, the whiche haue issue a daughter, and the wyfe dieth, and the husband taketh an other wyfe, and hath issue another daughter of his body, and discontinue the taylor, and after he dysceyseth the dyscontinue, and so dieth seised, now the land descēdeth to the two daughters in this case, as to the elder daughter that is inherytable by force of the taylor, this is a remptter but of the halfe, and as to the other halfe, she is put to her action of forme don agaynst her syster. For in this case the two sisters be but tenants in parceneri, but the tenants in cōmon, for this p they be in by dyuers titles. For the one sister is in, in her remitt by force of p taile; as to that p unto her belongeth. And

Tenantes
in common
by dyscent
where as
aunceller
dyed soole
seised.

the other sister is in, as to that that belongethe to her in fee symple by the dyscense of her father. &c.

In the same maner it is, yf the tenant in the taylor enfeoffe his heyre apparant in the taylor beyng the heyre within age, and an other ioyntenaunte in fee, and the tenaunt in the taylor dyeth, now the heire in the taylor is in his remytter as to the halfe, and as to that other halfe he is put to his wyte of forme done. &c.

Also if tenant in the taylor enfeoffe his heire apparant, the heyre being of ful age at tyme of the feoffement, and after the tenant in the taylor dieth, this is no remytter to the heire, for this that it was his own folp that he beyng of ful age wolde take suche feoffement. &c. But suche folp may not be adiudged in the heire beyng within age at the tyme of the feoffement. &c.

Also if tenaunte in the taylor enfeoffe a woman in fee, and dyeth, and his issue within age taketh the same woman to wyfe, this is a remytter to the chylde, and the wyfe then hath nothinge for this that the housbande and the wyfe ben but one person in the lawe. And in that case the housbande maye not sue a wyrtre of forme done, but yf that he wyll sue a gaynt him selfe, the which shalbe incouenient, and for that cause the law iudgerh the

Remitter.

Ro. C. lvi.

Cap. 12.

the heire in his remitter, for this that no
soly may be arrected to him being within
age at tyme of the spousels. &c. And if the
heire be in his remitter by force of the
rable, it foloweth by reaso, that the wife
hath nothing. &c. for in so much þ the hus-
band and the wyfe be but one person, the
lande may not be severed by values, and
for this cause the husbände is in hys re-
mitter of the hole. But otherwise it is, if
such an heire be of full age at tyme of the
spousels, for then the heire hath nothing
but in the ryght of his wyfe. &c.

¶ Also if a woman seised of certain land
in fee taketh an husbände, the which alie-
neth the same land to an other in fee, and
the alienor letteth the same lande of the
husbände and the wyfe, for terme of their
two liues, saving the reuercion to the les-
sour, & to his heires, in this case the wife
is in her remitter, and she is seised inde-
de in her demeane as of fee, as she was be-
fore, for thys that the takynge of estate
shalbe adiuged in the lawe the dede of the
husbände, and not the dede of the wyfe,
so that no solye maye be iudged in the
wyfe, that is couert in suche case. And in
this case the lessour hath nothyng in the
reuercion, for this that the wife is seised
in fee. &c. But in this case, if þ lessour wil
sue an action of wast agaynst þ husbände

Remitter
by reason of
the lase in
seised.

W. b.

and

Cap. vi.

**Estoppel
by a mat.
ter in dede.**

**Collusion
abhorred
in the law.**

Lyttelton liber. 3.

and his wife, for this that the husbunde
hath made wast, & husband may not haue
the lessour, for to shewe this that the sa-
hyng of estate made vnto him, and to his
wife, which maketh a remitter to hys wife
for this that the housbunde is stopped to
saye this that is agaynst his feoffement
and his owne repysel of estate for terme
of life to him and to his wife, and yet the
lessour hath no reuerid, for it is that the
fee simple is in the wife. And thus a man
maye see a matter in this case that a man
shal be stopped by a matter in dede though
no wytyng be dede indented, or other-
wise, be therof made. But if in an action
of wast, the husbunde make default at the
grand distress, and the wife prayeth to be
receyued, and is receyued, she shall well
shewe all the matter, and howe she is in
her remitter, and she shall barre the lessor
of his action, &c. for in euery case that the
wyfe is receyued for defaute of her hus-
band, she shal pleade, and haue the same
uauntage in pleadinge as she were a wo-
man sole, &c. And howe be it that the al-
pnce made the lease to the husbunde and
his wife by dede indented yet this is a re-
mitter to the wife. And also though the
aliene yelded the same land to the husband
and his wyfe by fyne for terme of their
lyues, yet this is a remitter to the wyfe
for

fo: this that the wyfe couert that taketh
estate by fine, shal not be examined by the
Justices. &c.

¶ And heare note wel that when anye
thyng shal passe fro the wyfe that is co
uert barō by force of a fyne, as if the hus
band and his wyfe make a consaunce of
ryght to an other. &c. or make a graunt or
a surrendre to an other, or release by a
fine to an other. et sic de similibus, where
the ryghte of the wyfe passeth frome the
wyfe by force of the same fyne, the wyfe
in all suche cases shalbe examyned befoze
that the fine be accepted, fo: thj that such
fynes conclude suche wyues couerte fo:
uer. &c. But where nothyng is moued in
the fine, but alonly that the husband and
the wyfe take estate by force of the same
fine, this shal conclude the wyfe, fo: this
that in such case she shal neuer be exami
ned. &c.

¶ Also if remante in the taile discontinue
the taile, and hath ylluc a doughter, and
dyeth, and the doughter being of full age
taketh an husband, and the dyscontinue
maketh a lease of this to the husband
and his wyfe, fo: terme of theyr lyues,
this is a remitter in dede to the wife, and
the wife is in by force of the taile. Causa
qua supra. &c.

¶ Also if land be giuen to the husband &
his

his wife, to haue and to hold to them and
to the heires of they; two bodies begotte
and after the husband alpeneth the lande
in fee, and taketh againe an estate to hym
and to his wyfe for terme of they; two
liues, in this case this is a remitter in dede
to the husband and his wife maugre the
husband: for it may not be a remyter in
this case to the wife except it be a remyter
to the husband, for this that the hus-
band and his wyfe be but one selfe person
in the lawe, though that the husbande is
stopped to claime. And for this, this is a
remitter to him agaynst his alpenacyon,
and his owne repzise as it is aforesayd.
¶ Also if land be giuen to a womā in the
taile, the remaynder to an other in the
taile, the remaynder to the thyrde in the
taile, the remainder to the fourthe in fee
and the wife taketh an husband, & the hus-
band discontinueth the lande of the wyfe
by this discontinuāce all the remainders
be discontinued. For if the wife dye with-
out issue they in the remainder shall haue
no remedie, but to sewe their wittes of
for medone in the remaynder, when they
come to their tyme. &c. But if after suche
dyscontinuaunce, estate be made to the
husband and bys wyfe, for terme of they;
two lyues, or for terme of an others lyfe
or an other estate. &c. for this that this is
a re-

a remptter to the wife. This is also a remptter to all them in the remaynder .&c. so: after this that the wyfe that is in her remptter dyeth without issue, they in the remaynder maye enter .&c. without any action o: sute. &c. In the same maner it is of them, which haue the reuercyon after such tailes. &c.

Also yf a man let a house to a woman for terme of her life, sayng the reuercyon to the lessour, and after one such a false and false action against the woman, and recouereth the house against her by default so that the woman may haue against him a w:pte Quod ei deforciat, after the statute of westminster seconde. Cap. 4. now is the reuercyon of þe lessour dyscyrnued, so that he maye haue no action of waste. But in this case if the womā take an husband, and he that recouereth letteth the house to the husband and to his wife, for terme of they: two lyues, there the wife is in her remptter by force of the fy:ste lease. And yf the husbāde and the wife make wast, the fy:ste lessour shall haue agaynst them a w:pte of wast for this, that in so muche that the wife is in her remptter, he is remitted to his reuercyon. But if semeth in this case, if he that recouereth by the false action, wyl brynge an other w:pte of waste agaynst the husbāde and his

Remptter.
pp reason
of a reason
re,

Capit. 12.

his wife, the husbände hath no remedye
agaist him, but to make default at þe great
distresse, &c. and to cause the wife to be re-
ceiued, and to plede the matter agayn þe
seconde lessour, and to shewe that the ac-
tion; by whiche he recovered, was false &
fayned in the lawe, and so the wyfe maye
barre hym, &c.

¶ Also if the husband discontinue þe land
of his wife, & after razeth agayne estate to
him and to his wyfe, and to the third per-
son for terme of their liues, or in fee, this
is no remitter to the womā, but as to the
moytie. And as for the other moytie it be-
houeth her after the death of her husband
to sue a wyrtie of Cur in vita. &c.

¶ Also yf the husbände discontinue the
lande to his wyfe, and goeth ouer the see,
and the discontinue lettereth the same land
to the woman for terme of her lyfe, and
deliuereth to her seisin, and after the hus-
band commeth and agreeth to þe lyuere of
seisin, this is a remitter to the woman, &
yet if the woman had ben sole at the tyme
of the lease made to her, this shulde be to
her a remitter, but in so much as she was
couerte baron at the tyme of the lease and
of the liuery of seisin made to her though
that she onely toke the lyuerye of seisin,
this was a remyter to her, by cause a wo-
man couert shalbe adiudged as an infant
within

within age in such case. &c. Enquire in this case, if the husband when he cometh againe from beyond see, if he wil disagree to the lease and lyuerie of sepsyn made to his wyfe in his absence, yf this shal put the woman fro her remitter or not. &c.

¶ Also yf the husbände dyscontinue the tenementes of his wyfe, and the dyscontinue is dysseised, and after the disseisour letteth the sayde tenementes to the husbände and his wyfe for terme of yste, this is a remitter to the wyfe: but if the husbände and the wyfe were of coun and consent, that the disseisin shulde be made then it is no remitter to the wyfe, bicause she is a disseisour. But yf the husbände were of couyne and consent to the disseisin, and not the wyfe, the such lease made to the wyfe is a remitter, bycause that no defaute was in the wyfe.

¶ Also if such a discontinue had made estate of frehold to the husbände and to his wyfe by dede indetred upon condition. s. reseruyng to the discontinue a certayne rent and for defaut of payment of the rent a reentre, & bicause that the rent is behynde, the discontinue entreth, then of this entre the womā shal haue assise of nouel disseisin after the death of the husbände against the discontinue, bicause that the condition was holly admulled, in so much as the woman

Cap. 11.

man was in her remitter, yet the husband with his wife coulde not haue assise, by cause the husband is stopped. &c.

¶ Also if the housbande discontinue the tenementes of his wife, and takerh estate againe to him for terme of his life, the remainder after his deccasse to his wyfe, for terme of her life, in this case this is no remitter to the wyfe, during the lyfe of her husband, because that during the lyfe of the husband, the wyfe hath nothyng in frehold, but if in this case the wyfe ouerliue the husband, this is a remitter to the wyfe, because that a freeholde in lawe is fallen to her, maugre her wyll. And in so much that she can haue no action against none other person, and agaynst her selfe she can haue no action, therefore she is in her remitter. For in this case though that the woman enter not in the tenementes, yet a straunger that hath cause to haue action, may sue his action agaynst the woman of the same tenementes, because she is tenant in law, though she be not tenant in dede, for tenant of franke tenement in dede is he, that yf he be dysseised of his franke tenement, he may haue assise, but tenant of freeholde in lawe before his entre in dede, shal haue no assise, and yf a man sealed in fee of certayne land hath if sue a son, whiche takerh a wyfe, and the father

father dyeth seyled, and after the son dyeth, before any entre made by hym into þe lande, the wyfe of the son shalbe endow- ed in the lande, as is aforesayd in the cha- piter of relcauses, and yet he had no frank- tenement in dede, but he had a fee and a franketenement in lawe. And so note wel that a *Wrecipe quod reddat* maye as well be maynteyned agaynst hym, that hath franketenement in lawe, as against him that hath franketenement in dede.

¶ Also if tenaunte in the tayle haue issue ii. sonnes of ful age, and he letteth the tai- led land to the elder son for terme of his life, the remainder to the yonger son for terme of his life, and after the tenaunt in the tayle dyeth. In this case the elder son is not in his re. nitter bicause that he toke estate of his father, but if the elder sonne dye without issue of his bodye, then this is a remitter to þe yonger brother bicause he is heire in the taile, & a franketenemēte in law is fallen vpon him, by force of the remaynder, and there is none, agaynst whom he may sue his action. &c.

¶ In the same maner it is, where a man is disseyled, and the disseylour dieth ther- of seyled, and the tenementes descende to his heyre, and the heyre of the disseylour makethe a lease to a manne of the sayde

tenementes for terme of lyfe, the remains
der to the disseisee for terme of life, or in
taylor, or in fee, and the tenant for terme
of lyfe dyeth, nowe this is a remitter to
the disseisee. &c. Causa qua supra.

Also if tenant in the taile enfeoffe bys
son, and an other by his dede of the taye
led lande in fee, and lyuerie of seysyn is
made to the other, accoꝝdinge to the dede
and the son not knowynge thereof, nor
agreyng to the feoffemente, and after he
that toke the luerie of seysyn dyethe, and
the son occupieth not the land, nor taketh
any pꝛofyte of the lande, duringe the lyfe
of his father, and after the father dyeth
now this is a remitter to the son, bicause
that the freholde is fallen to hym by the
suruiuour, and no default was in hym
bycause he neuer agreed. &c. in the lyfe
of his father, and there is none agaynst
whome he may pursue his wꝛyt of foꝛme
done. &c. for yf a man be dysseysed of cer
tayne land, and the dysseysour maketh a
dede of feoffement. wherby he enfeoffeth
B. C. and D. and the lyuerie of seysyn is
made to B. and C. but D. was not at y
luerie of seysyn, nor neuer agreed to the
feoffemente, nor neuer wolde take the
pꝛofites. &c. and after B. and C. dye, and
D. ouerlyueth them, & the dysseysor byꝝ
geth his wꝛit vpon dysseysyn in the per
gynse

Remytter.

ffo. C. liij.

Cap. 12.

against the same D. he shal shewe al the matter, & howe that he neuer agreed to þe feoffment, and so he shal discharge hym selfe of damages, so that the demandaunt shal recouer no damage against hi, though that he be tenant of franktenement of the land. And yet the statute of Glocester cap. x. wyl that the disseisee shal recouer damages in a wrytte of Entre grounded upon the nouel disseisin against hym that is founde tenant. And this is a pfofe in the other case, that in so muche as the issue in the taile cometh to the franktenement, and not by his dede, no: by his agreement, but after the death of his father this is a remitter to him, in so much that he can not sue an action of Formedone against none other person, &c.

¶ Also if an abbot aliene the land of hys house to an other in fee, and the alience by his dede chargeth the land with a rent charge in fee, and after the alience enfeofeth the abbote with licence to haue and to holde to the abbote and to his successors for euer, and after the abbot dyeth and an other is chosen and made abbote In this case the abbot that is the successor, and his couente be in theyr remytter, and shal holde the land discharged, bycause that the same abbot can not haue any actyon of wrytte of entre sine

ff. ii.

assensu

assensu capituli, of the same lades against none other person.

In the same maner it is, where a byshop, or a deane, or other such persones alien. &c. wout assent. &c. & the aliene charge the land. &c. and after the byshop taketh estate agayne of the sayd lande by licence to him and to his successours & after the byshop dyeth, his successour is in his remitter, as in righte of his church, and shall defere the charge. &c. causa qua supra

Fauxslier,
de rac, par,
defaute

Also if a man sue a false action against the ternaunt in the taylor, as if a man wyl sue agaynst hym a wrytte of entre in the Dost, supposing by his wryt, that the ternaunt in the taylor, had not his entre but by A of B. that dyssesled the grandfather of the demaundant, and that is false, and he recovereth against the ternaunte in the taylor by default, and such execution, and after the ternaunt in the taylor dyeth, his issue may haue a wryt of foindone against him that recovered, and yf he wyl pleade the recouere agaynst the ternaunte in the taylor the ysue maye saye, that the sayde A. of B. dyssesled not the grandfather of hym that recovered in the maner, as his wrytte suppose the, and so he shall falsifye his recoverye. Also suppose that this was true, that the sayde A. of B. dyssesled the graundfather of the demaundant

that

tha
the
fat
in
lan
suc
the
is
ple
dis
ner
the
the
me
aft
sue
hym
the
fath
be n
his
sue
And
to s
is t
wo
taylor
by t
And
the
befo

that recouered, and that after y^e dyssellin,
the demandat o^r his father, o^r his gran-
father by a dede had relested to the tenant
in the taile, al the right that he had in the
lande. &c. and this notwithstandinge he
sued his w^{rit} of entre in the post against
the tenaunte in the tayle, in the maner as
is aforesayde, and the tenant in the taile
pleaderth to hym, that the sayde A. of B.
disseised not his gcaundfather in the ma-
ner as his w^{rit} supposeth, and vpon this
they be at issue, and the issue is founde fo^r
the demaundant, whereby he hath iudge-
ment to recouer: and such execution, and
after the tenant in the tayle dieth, his is-
sue may haue a w^{rit} of fo^rmdone against
hym that recouered. And if he wyl pleade
the recouere by actyon tryed against hys
father that was tenau nt in the tayle, the
he may shewe & pleade the release made to
his father, and so the actyon that was
sued, was saynt in the lawe. &c.

And it semeth that faint actio is as much
to saye in Englyshe a sayned action, that
is to saye, suche actyon, that though the
wordes of his w^{rit}te be true, yet fo^r cer-
tayne causes he hath no cause no^r tytle
by the lawe to recouer by the same action
And false action is where the wordes of
the w^{rit}te be false, and in the two cases
beforesayde, yf the case were suche, that

¶.iii.

after

Faurera
de recoueret
par saynte
plede.

Faynte ac-
tion.

False actio

after suche a recouere and execution ther-
of made, the tennaunt in the taylor had dis-
seised hym that recouered, and thereof
dyed seised, whereby the lande also des-
cended vnto his issue, thys is a remytter
vnto the issue, and the issue is in by force
of the taile, and for that cause I haue put
these two cases before sayde, to enfourme
the my son, that the issue in the taylor, by
force of a discent made to hym, after a re-
couere and execution made agaynst his
auunclester, may be as wel in his remitter
as he shulde be by dyssent made to him af-
ter a discontinuance made by his auunclester
of the sayed landes by feoffment in the
countrey or otherwyle. &c.

¶ Also in the same case aforesayde, if the
case were suche, that after this, that the
demaundant had iudgement to recouer a-
gaynst the tennaunt in the taylor, and the
same tennaunt in the taylor died before any
execution hadde agaynst hym, whereby
the tenementes descende to his issue, and
he that recouered, sued a Scire facias out
of the iudgemente, to haue execution of
the iudgement agaynst the issue in y^e taile
the issue shall pleade the matter as before
is sayde, and so shall proue that the reco-
uerie was false or faynte in the law, and
so shall barre hym to haue execution of
the Iudgement. &c.

Also

Also if tenaunt in the taile discontinue the taile, and dieth, and his issue byzingerb a wꝛit of Foꝛmedone agaynst the dyscontinuce beyng tenant of the frehold of the lande, and the discontinue pleaderb, that he is not tenāt, oꝛ otherwise disclaimethe in the tenancy, in this case the iugemente shalbe, that the tenant go without daye and after suche iudgement the issue in the taile, that is demaundant may wel enter in the lande, not withstandyng the dyscontinuance. And by such entre he shalbe adiudged in his remytter, and the cause is foꝛ this, that wherc any mā setweth a pꝛeꝛipe quod reddat, agaynst any tenaunt of frehold, in which action the demaundant shal not recouer damages, and the tenant pleaderb no tenure, oꝛ otherwysle dysclaymeth in the tennacie, the demandant may not auerre his wꝛyt and saye, that he is tenant, as the wꝛyt supposethe. And foꝛ that cause the demandant after that that iudgement is gyuen, that the tenant shall go without daye may enter into the tenementes demaunded, the which shalbe as greate aduantage to hym in the law as yf he hadde iudgemente to recouer agaynst the tenaunte. And by suche entre he is in hys remytter by foꝛce of the taile, but wher the demaundaunte recouereth damages agaynst the tenaunt, the

in this case the demaundant may auerre that he is tenant as the w^{rit} supposeth, & is fo^r the aduantage of the demandante fo^r to recouer his damages, o^r els he shall not recouer h^{is} damages, the which damages be o^r were giuen him by the lawe.

¶ Also yf a man be dysseised, and the disseisour dye, his heire being in by discēt nowe the entree of the disseisee is taken away. And if the disseisee by^{ing} his w^{rit} of entree vpon the dysseisin in the per against the heyre, & the heyre disclaymeth in the tenancy. &c. the demaundant may auerre his w^{rit}, that he is tenaunt as the w^{rit} supposeth, yf he wyl, fo^r to recouer his damages. But yet if he wyl leaue the auerrement. &c. he may lawfully enter in to the land, bicause of the disclaymer, notwithstanding that his entree before was taken away. And that was adiudged before my master sy^r Robert Danby, late cheefe Justice of the common place, and his companions. &c.

¶ Also where the entree of a man is lawful, though that he take estate to him when he is of full age fo^r terme of lyfe, o^r in taile, o^r in fee, this is a remitter to him yf such taking of estate be not by dede cōdented, o^r by matter of record, that shall conclude o^r estoppe hym. fo^r if a man be dysseised and thereof taketh estate of the disseis

four without dede oꝝ by dede pol, this is
a good remytter to the disseisee. 3c.

¶ Also if a man let lande foꝝ terme of life
to an other, the whiche alveneth to an o-
ther in fee, and the alienour maketh estat
to the lessour, this is a remitter to the les-
sour, bycause his entre was lawfull. 3c.

¶ Also if a man be disseised, and the dys-
seisour lettereth the land to the dysseisee by
dede poll, oꝝ without dede foꝝ terme of
yeres, wherby the disseisee entreth, thys
entre is a remitter to the disseisee. foꝝ in
such case where the entre of a man is law-
full, and a lease is made to hym, though he
that he claime by wordes in the countrey
that he hath the estate by foꝝce of such lease
oꝝ saith opely, that he claimeyth nothyng
in the land, but by foꝝce of such lease, yet
this is a remitter to him, foꝝ such claime
in the countrey is nothyng to purpose but
if he claime in any courte of recoꝝde, that
he hath estate but by foꝝce of such lease &
not otherwise, then he is concluded. 3c.

¶ Also if two iointenantes seised of cer-
taine land in fee, the one beynge of ful age
the other within age, be disseised, and the
disseisour dyeth seyled, and his issue en-
treth, the one of the iointenantes beynge
the within age, and after that he cometh
to ful age, the heire of the dysseisour let-
tereth the lande to the same ioyntenantes

Enoppel.

Lyttelton liber. 3.

Cap. 35.

foz terme of they? two lyues, this is a res-
mitter as to the halfe to him that was in
in age, by cause that he is seised of þ mo-
tie that belongeth to him in fee, by cause
his entre was lawfull But the other ioin-
tenaunt hath in the other halfe but an e-
state foz terme of hys lyfe by fo:ce of the
lese bicause his entre was takē away. &c.

Warrantie. Cap. xiii.

It is commonlye sayde, that there be
thre maner of warrancies, þ is to say
warrantie lineal, warrantie collate-
ral, and warrantie that beginneth by dis-
seisin. And it is to wit, that befoze the sta-
tute of Gloucester cap. 3. all warrantyes
which descended to thē which were heyres
to them that made the warrantye, were
barres to the same heyres to demaunde
any landes o: tencementes agaynſt those
warranties, except the warranties that
beganne by dysseisin. For such warrant-
ye was neuer barre to the heyre, bicause
the warrantye began by wzonge, that is
to saye, by dysseisin.

Warrantie
that begyn-
neth by dis-
seisin.

Warrantye that begynneth by dyssei-
sin is in suche forme, as where there is
father and son, and the sonne doth pour-
chase lande. &c. and letterth the same land
to his father foz terme of yeres, and the
father by his dede thereof enfeoffe the an-
other in fee, and byndethe hym and hys
heyres

heymes to warrantye: yf the father dye, wherby the warrantye descendeth to his sonne, this warrantie shal not barre the son for not withstanding this warrantye the sonne maye well enter into the lande or haue an assyse agaynst the alience if he wyl, bycause the warrantie beganne by dysseysin. For when the father that had no estate, but for terme of yeares, made a feoffement in fee, thys was a dysseysin to his sonne of the franketencement, that then was in the son.

In the same maner it is, yf the son let vnto the father the lande to holde at wyl & after the father maketh a feoffement wth warrantie. &c. & as it is said of þ^e father so it may be said of euery other ancestor. &c.

In þ^e same maner it is, if tenant by elegit, tenant by statute merchant, or tenat by statute staple, make a feoffement in fee wth warrantye. &c, thys shal not barre the heire that ought to haue the land bycause that such warranties begin by dysseysin.

Also if wardene in chivalrie, or wardein in socage make a feoffement in fee, or in fee taile, or for terme of life wth warrantie. &c. such warranties be no barrs to the heires, to whom the lande shal descende, bycause that they begyn by dysseysin.

Also if the father and the son purchase certayn landes or tenementes, to haue and
to

to holde to them ioyntly. &c. and after the father alpenethe the hole to an other, and byndeth him and his heires to warranty &c. and after the father dyeth, this warrantie shal not barre the son of the moitie that belonged to hym of the same landes oz tenementes, bycause that as to that moyte, that belonged to the son, the warranty began by dysseyn.

¶ Also if A. of B. be seised of a mesc, & F. of B. that hath no right, entreth into the same mesc, claiming to holde þ same mesc to him and to his heyres, but the sayd A. of B. then is continually dwelling in the same mesc, in this case the possesyon of the franketenement shalbe alway adiudged in A. of B. & not in F. of B. bycause that in such case, where two be in one mesc, oz in other tenementes, and the one claymeth by one title, and the other by an other title, there the lawe shall adiudge hym in possession that hath ryght to haue the possession of the same tenementes. But in the case aforesayd, yf F. of B. make a feoffement to certayne barretours & extorcioneers in the countrey for to haue maintenance of them, to haue the same mesc by a dede of feoffement w warranty, by force of which the sayd A. of B. dare not dwell in the same mesc, but goeth out of þ same mesc this warranty beginneth by dysseyn

syn, by cause that synche a feoffement was
cause that the sayde A. of B. forsoke the
possession of the same me. &c.

¶ And ye shall note, that where one ha-
ving no right to enter in an others tene-
mentes, doth enter into the sayd tene-
mentes, & incontinent maketh a feoffement to
other persons by his dede with warrantie
and delivereth to the seisin, this war-
rantie beginneth by disseisin, bicause that
the disseisin & the feoffement were made
as it were at one tyme, and that this is
lawe, ye may se in a plee Anno. 31. E. 3. in
a wyrtte of Formedone in the reuercion.

¶ Warrantie lineal is where a man sep-
sed of certayne lande in fee maketh feoffe-
ment by his dede to an other and bindeth
him and his heires to warrantie & hath
issue, and dieth, and the warrantie descen-
deth to his issue, this is a lineal war-
rantie. And þe cause why this is a lineal war-
rantie is not by cause that the warrantie
descendeth frome the father to his heyre,
but the cause is for this cause, that yf no
suche dede with warrantie had bin made
by the father, then the ryght of the tene-
mentes shuld descend to the heire, & þe heire
shulde convey the discreit fro the father. &c.
¶ For if there be father and son, and the
son purchas tenementes in fee, and the fa-
ther disseiseth þe son therof, and alieneth
it

Warrantie.

Warrantie
lineal.

it to an other in fee by his dede, and by the same dede bindeth him and his heyres to warrant the same tenementes. &c. and the father dyeth, now is the son barred to haue the sayde tenementes, for he may by no suite, nor by no other meane by the lawe haue the sayde tenementes, bycause of the said warrantie, for this is a collateral warrantie, and yet the warrantie descended lineally from the father to the son. But bycause that if no suche dede w warrantie had be made, the son in no manner might conuey the title þ he hath in the tenementes from his father to him, in so much that his father hadde no estate nor ryght in the tenementes, therefore suche warrantie is called collateral warrantie in so much that he þ made the warrantie is collateral to the tytle of the tenementes and that is as muche to saye, that he, to whome the warrantie descended, coulde not conuey the tytle that he had in the tenementes by him that made the warrantie; in case þ no such warrantie had be made. ¶ Also if there be graundfather, father and son, and the graundfather is dysseised, in whole possession the father releaseth by his dede with warrantie. &c. and dyeth, and after the graundfather dyeth now is the son barred to haue the tenementes by the warrantie of his father, and

and this is called lineall warrantie, by cause that if no such warrantie had bene made, the son mighte not haue conueyed the ryght of the tenementes to hym, nor shewe how he is heire to the grandfather but by the meanes of the father. &c.

¶ Also yf a man haue issue two sonnes, and is dysseised, and the elder son releaseth to the dysseisour by his dede with warrantie. &c. & dieth without issue, and after the father dieth, this is a lineall warrantie to yonger son, bicause yf though the elder son dyed in the lyfe of the father yet by possibilitie he myght be hys heire and he might conueye to hym the tittle of the land by his elder brother, yf no suche warrantie had ben made. For it mighte be, that after the deth of the father the elder brother entred into the tenementes, and died without issue, and then the yonger son shal conuey to him the tittle by his elder brother. But in this case if the yonger son release wth warrantie to the dysseisour, & dieth without issue, this is a collateral warrantie to the eldest son, by cause yf of such land as was to the father, yf elder brother by no possibilitie might conueye to hi yf tittle by meane of the yonger brother.

¶ Also yf the tenant in the rayle haue issue thre sonnes, and discontinue the rayle in fee, and the myddle son releaseth by hys dede to the dyscontinuer, and

bindeth him and his heires to warrantie and after the tenat in the taile dyeth, and the myddle son dieth without issue, nowe is the elder son barred to haue anye recoverye by a writte of Formedone, by cause that the warrantie of the myddle brother is collaterall to him, in so muche that he may by no maner conuey to him by force of the taile any discent by the myddle brother, and therfore it is a collaterall warrantie. But in this case yf the elder brother dye without issue, nowe the yonger brother maye well haue a Formedone in the descender, and recovered the same land because that the warrantie of the myddle brother is lineal to the yongeste brother, because it may be, that by possibilitie the middle brother might haue ben sealed by force of the taile after the death of his elder brother, and then myght the yongeste brother conuey his title of discent by the myddle brother. &c.

¶ Also if tenant in the taile discontynue the taile, and hath issue, and dye, and the uncle of the issue release to the dyscontynue with warrantie. &c. and dyeth without issue, this is a collaterall warrantie to the issue in the taile, by cause that the warrantie descendereth bypon the issue, whiche can not conuey hym selfe to the taile, by meane of his uncle.

Also

¶ Also if the tenant in the tale haue p^rsent two daughters and dyeth, and the elder daughter entrech into p^rsent hole, & therof maketh a scoffement in fee with warranty. &c. and after the elder daughter dyethe without issue: in this case p^rsent younger daughter is barred as to the one moitie, and as to p^rsent other moitie she is not barred, so: as to the moitie that belongeth to her selfe: she is barred, bicause that as to p^rsent moitie she can not conuey the disceit by p^rsent meane of her elder syster, and therfore as to that moitie, this is a collateral warrantie, but as to the other moitie, which belonged to her elder sister, the warrantie is no barre to the younger syster, bicause that she may conuey her disceit, as to that moitie that belonged to her elder syster, by meane of the elder syster, and so as to that moitie that belonged to the elder syster, the warrantie is lineall to the younger syster. &c.

¶ And note well, that as to him that demaunders the fee simple by any of his ancestors, he shalbe barred by a lineal warrantie, which descendeth vpon hym, excepte it be restrayned by some statute, yet he that demaunders the fee tale, by a wyte of forme done in the descender, shall not be barred by a lineall warrantie, excepte he haue y^enoughe by disceit in fee simple by the same auncestor, that made the

Warrantie. But a collateral warrantie is a barre to him that demaunderh fee, & also to hym that demaunderh fee taylor, without any other dyscent of fee symple, except in cases that be restrayned by the Statutes, and other cases for certayne causes, as shalbe sayde hereafter.

Also if lande be gyven to a man, and to his heyres of his bodye begotten, the which taketh a wife, and haue issue a son betwene them, and the husband discontinueth the taile in fee, and dieth, and after the wyfe releaseth to the discontinue in fee with warranty. &c. and dieth, and the warrantie descendeth to the son, this is a collateral warrantie, but if tenementes be gyven to the houshande and the wyfe and to the heyres of theyr two bodies begotten, whiche haue issue a sonne and the husshande discontinueth the taile, and dyeth, and after the wyfe releaseth with warranty & dieth, this warrantie is but a lineal warrantie to the son, for the son shal not be barred in this case to sue his wyfe of forme done, except he haue ynough by dyscente in fee symple by his mother, because that their issue in a wytte of forme don ought to conuey to him the ryght as heire to his father, and to his mother of their. ii. bodies begotten by fourme of the gift. And so in such case the warrantie of

the

the father, & the warrantie of the mother
be but as lineal warranties to þe heire .&c.

¶ And now wel that in euery case where
a man demaunders tenementes in fee taile
by a wyttre of Formedone, yf anye of the
ysue in the taile that had possession, or
that hadde no possession, make a warrant-
tye .&c. yf he that suethe the wyttre of
Formedone myghte by anye possybyltye
by matter that myghte be in dede conuey
to hym the ryghte by hym that made the
warrantie by the fourme of the gyft .&c.
this is a lineall warrantye and not col-
laterall .&c.

¶ Also yf a man haue issue thre sonnes,
and he gyueth lande to the eldest son, to
haue and to hold to him and to his heires
of his body begotten, and for default of
suche ysue, the remainder to the myddle
son, to him and to the heyres of his bo-
dy begotten, and for default of suche issue
the remainder to the yongest son, and to
his heires of his body begotten: in this
case yf the eldeste sonne dyscontynue the
taile in fee, and bynd him and his heires
to warrantie, and die withoutt issue, this
is a collateral warrantie to the myddle
son, and he shalbe barred to demaund the
same lande by force of the remainder, by
cause that the remainder is his tytle, and
his eldeste brother is collateral to

Y. ii.

that

that tytle, whiche beginneth by force of
the remaynder.

In the same maner it is, yf the myd-
dle sonne hadde the same land by force of
the remainder, bicause that his eldest bro-
ther made no dyscontinuaunce, but dyed
without issue of his bodye, and after the
mydle son maketh a dyscontinuaunce with
warrantie. &c. & dieth without issue, this
is a collaterall warrantie to the yongest
son, and also in this case if any of þe sayde
sonnes be disseised, and the father þe made
the gyfte release to the dysseysour all his
right. &c. with warrantie, this is a colla-
terall warrantie to that son, upon whom
the warrantie descended, causa qua sup; a
And so note well, that where a man that
hathe collaterall tytle, and his father re-
leaseth with warrantie, that is a colla-
terall warrantie. &c.

Also yf the father gyue lande to
hys elder sonne, to haue and to holde to
him and the heyres males of his body be
gotten, the remaynder to the seconde son
&c. if the eldest brother aliene in fee with
warrantie. &c. and hath issue female, and
dieth without issue male, this is not a col-
laterall warrantie to the seconde sonne,
no; shall not barre hym of his action of
formedone in the remaynder, bicause
that the warrantie descendeth to the
doughter

doughter of the eldest son, and not to the second son. For every warrantie that descendeth, descendeth to him that is heire vnto him, whiche made the warrantie by the common lawe. &c.

¶ Also if lande be giuen to a man, and to his heires males of his body begotē, and for default of such issue, & remainder thereof to his heires femal of his body begotē and after the donee in & taile maketh a feoffment in fee, wth warrantie accordyng, and hath issue a son and a doughter and dieth, this warrantie is but a lineal warrantie to the son, to demaunde by w^{ryt} of forme done in the descender, and it is but lineall to the doughter, to demaunde the same lande by w^{ryt}te of forme done in the remainder, if her brother dye without heire male, because that she claimeth as heire female of the bodye of her father begotten. But in this case if her brother in his lyfe release to the discontynue. &c. with warrantie. &c. and after die without issue, th^{is} is a collateral warrantie to the doughter because that she can not cōuey to her the right that she hath by force of the remainder by any meane of dyscende by her brother, for this, that the brother is collateral to the tytyle of his syster, and therefore his warrantie is collateral. &c.

¶ Also I haue harde saye, that in the

tyme of king Rycharde the seconde, there
 was a Justice of the common place dwel-
 lyng in kent, called Rykhyll, that had is-
 sue byuers sonnes, and his entent was þ
 his eldest son shulde haue certaine landes
 and tenementes to him and the heyres of
 his body begotten, and so; default of issue
 the remaynder to his seconde son. &c. and
 so to the thyrde son. &c. And bycause that
 he wold that none of his sonnes shulde a-
 lyene o; make warrantye so; to barre o;
 to hurte the other that shuld be in the re-
 maynder. &c. he caused to be made an in-
 denture to such effect, this is to say, that
 the landes and tenementes were graunt to
 the eldest son upon this condycyon, that
 if þ eldest son aliened in fee, o; in fee taile
 &c. o; if any of his sones alyened. &c. that
 then they; estate shuld cease, and shuld be
 boyde, and that then the sayd landes and
 tenementes immediatly shulde remaine
 to the seconde sonne, and to the heyres of
 his body begotten and that vpon the same
 condycyon. i. that yf the seconde sonne a-
 lyen. &c. that then his estate shulde cease,
 and that then the same landes and tene-
 mentes shoulde remaine to the thyrde
 sonne and to the heyres of hys bodye be-
 gotten, and so forth the remaynder to o-
 ther of his sones, and liqere of seisin was
 made acco;ding. But it semeth by reason
 that

that al such remainders in þe for me before
sayd be boyde, & of no value, and that for
thre causes. One cause is for this, þe currey
remainder, that beginneth by a dede, it be
houethe that the remainder be in hym, to
whom the remainder is tayed by force of
the same dede, when the lyuere of sepsyn
is made to him that hath the franketene-
ment, for in suche case the beyng and not
being of the remainder, is by liuere of sei-
sin made to him, which shal haue þe frank-
tenement, and suche remainder was not
to the seconde son at the tyme of liuere of
sepsyn, in the case before sayd. &c. the se-
conde cause is if the first son aliene the re-
nementes in fee, then is the franketene-
ment and the fee simple in the alienee, and
in none other, and if the donour had any
reuercion by such alienation, the reuerci-
on is discontinued, then thoughe that by
some resch, it may be that such remainder
shall begynne his beyng and his grow-
wyng immediatly after suche alpena-
cion made to a stranger, that hath by the
same alpenacion franketement and fee
simple. And also if such remainder shuld
be good, then myght he enter bypon the
alpenec, where he had no maner of righte
before the alpenacyon, whiche shulde be
inconuenient. The thyrde cause is why
the condycion is suche, that yf the eldest

son alpyene. &c. that his estate shall cease,
or shalbe boyde. &c. then after suche alpy-
enacyon. &c. maye the donoure enter by
force of suche condycyon. &c. as it semeth
and so the donoure, or bys heyses in such
case ought moze sooner to haue the lande
then the seconde son that hadde no ryght
befoze suche alpyenacyon. &c. and so it se-
meth that suche remainders in the case
befozesayde be boyde. &c.

Also at the common lawe befoze the
statute of Gloucester. cap. 3. yf ternaunt by
the curtesie had aliened in fee with war-
rantye, after his decease, this was a bar
to the heyre. &c. as it appereth by the wo-
des of the same statut. But it is remedied
by the same statute, that the warrantye
of the ternaunte by the curtesye shalbe no
barre to the heire, excepte he haue inough
by discent by the ternaunt by the curtesye
foz befoze the said statute that was a col-
laterall warrantye to the heyre, bycause
he coulde not conuey any tytle of dyscent
to the ternautes by the curtesye, but one-
ly by his mother or other of his auctors
&c. & that is the cause why it was collate-
rall warrantye. But if a manne inherite
take a wyfe, whiche haue issue a son be-
twene them, and the father dieth and the
son entreth in the land and endoweth his
mother, and after his mother alpyeneth
that

that that she hath in her dower, to an o-
ther in fee with warrantie accordeynge,
and after dieth, and the warrantie descē-
derh to the son, now the son shalbe bar-
red to demaunde the same lande, by cause
of the sayd warrantie, by cause that such
collateral warrantie of tenaunte in do-
wer is not remedied by any Statute. The
same lawe is where tenaunt for terme of
lyfe maketh an alienacion with warrant-
tie. &c. and dyeth, and the warrantie des-
cenderh to hym that hadde the reuercyon
of the remaynder. &c. they shalbe barred
by suche warrantie. &c.

Also in the said case, if it so were, & when
the tenant in dower alieneth. &c. & heyr
was within age, & also at that tyme & the
warrantie descended vpon him, he was w-
in age, in this case the heyr maye after
enter vpon the alience, notwithstanding
the warrantie descended. &c. by cause that
no laches shalbe adiudged in the heyr w-
in age, that he entred not vpon & alience
in the lyfe of the tenaunt in dower, but if
the heyr was within age at the tyme of
the alienacion. &c. and after he came to
full age in the lyfe of the tenaunte in do-
wer, and so beyng of full age he entred
not vpon the alience in the lyfe of tenant
in dower, and after the tenaunt in dower
dieth. &c. there paduerture & heire shalbe

y. b.

barred

barred by suche warrantie, because it
shalbe acompted his folp, that he beinge
of ful age entred not in the lyfe of the te-
nant in dower.

¶ Also it is spoken in the ende of the said
statute of Glocester, that speakerb of the
alpenacyon with warrantie made by the
tenant by the curtesie in suchfourme. In
the same maner the heyze of the womā af-
ter the deyth of the father and mother shal
not be barred of action, if he demaund the
heritage oꝝ the mariage of his mother by
a wyttre of entre, that hys father alpened
in the tyme of his mother, wherof no fine
is leuied in the kinges courte. &c. And so
by foꝝce of the same statute, if þ husbāde
of the wife alien the heritage oꝝ maryage
of his wife in fee with warrantie. &c. by
his dede in the contrey, this is clere lawe
that this warrātic shal not barre þ heire
excepte he haue ynoughe by discent. &c.
But the doubte is, if that the husbāde a-
lien þ heritage of his wife by fyne leuped
in the kinges court with warrantie. &c.
if this shal barre the heire without anye
byscnt in value. &c. And as to that I wil
saye heare certayne reasons, that I haue
harde spoken in this matter. I harde my
maister saye Rycharde Newton late chiefe
Iustyce of the common place, saye ones
in the same place, that suche warrantie
that

that the baron makethe by fyne leuyed in the kynges courte, shall barre the heyre though he haue nothing by descent because the statute sayth, wherof no fine is leuyed in the kynges courte. And so by his other opinion this warrantie by fine &c. abydethe yet a collatcrall warrantie as it was at the common lawe not remedied by the sayd statute, because that the said statute excepteth the alienacyōs by fyne with warrantie, and some other haue sayde, and yet say the contrary, and this is their p̄ose, that as by the same chapter of the sayd statute, it is ordeyned, that the warrantie of the tenant by the curtesy shall not barre the heyre, except he haue ynough by descent. &c. though that the tenant by the curtesy leuie a fine of the same landes with warrantie. &c. as strōgly as he can, yet this warrantie shall not barre the heire, except he haue ynough by descent &c. And I thinke that this is a law, for this that they say, that it should be inconuenient to vnderstande the statute in such fourme that a man that hath nothing but in the right of his wyfe, may by fyne leuied by him selfe of the same tenementes that he hath but in the right of his wyfe without warrantie. &c. shall barre the heire of the said tenementes without any descent of fee simple &c. where the tenant by the curtesy can not

do it. But they haue said, that the statute
shalbe vnderstand after the fourme, that
is to say, where the statute speaketh, where
of no fyne is leuyed in the kynges court
that is to saye, wherof no lawful fyne is
ryghtfullyc leuyed in the same court of
the kyng, and that is wherof no fine of
the husbnde and his wyfe is leuyed in
the kynges court, for at the tyme of the
making of the said statute euery estate of
landes or tenementes that any mā or wo
man had, that shuld descende to his heyre
was fee simple without condicion, or by
pon certaine condicion in dede or in lawe
And bicause that suche fyne then myght
lawfully haue ben leuyed by the husbnde
and his wife, and the heires of the hous
bnde warranted. &c. suche warrantye
shulde barre the heyre. &c.

And so they say that this is the vnder
standyng of the said statute, for if the hus
bnde and the wife made a scoffement in
fee by dede in the countrey, the heyre af
ter the deceasse of the husbnde and the
wife shal haue a wryt of entre sur cui in
vita. &c. notwithstanding the warrantie
of the husbnde. Then if no such excep
tion was made in the statute of the fine le
uyed. &c. the heire shuld haue the wryt
of entre. &c. notwithstanding the fine le
uyed by the husbnde and the wife, bicause
that

that the wordes of the statute before the
exception of the fyne leuyed .&c. be gene-
ral. &c. that is to say, that the heyre of the
woma after the deth of the husbände and
the wyfe shal not be barred of actiō, if he
demaunde the herp tage oꝝ the mariage of
his mother by writ of entree, that his fa-
ther aliened in the tyme of his mother.

And so though the husband and the wyfe
aliened by fyne, yet this is true, that the
husband, aliened in the tyme of þ mother
& thus it shuld be in the case of the statute
except such wordes were, that is to saye
whereof no fyne is leuyed in the kynges
court. And so they say, þ is to vnderstand
wherof no fine by þ husbād & the wyfe is
leuyed in þ kynges court, þ which is lawe
fully leuyed in such case. For if þ iustices
haue knowlege þ a man that hath nothig
but in the right of his wyfe, wyll leue a
fine in his name onely, they wyll not noꝝ
ought not to take such fine to be leuyed by
the husband onely, without naminege the
wife. &c. therfore enqurye of this matter

¶ Also it is to wyte, that in such wordes
wher the heyre demaundeth the herp tage
oꝝ mariage of his mother, this worde oꝝ,
is a disiunctiue, and is as much to say, if
the heyre demaunde the herp tage of his
mother, this is to be vnderstande, the
tenementes that his mother hadde in fee
simple

Capit. 13.

The effecte
of this
woꝛde defende
mus in a
de.

simple by discentre, oꝛ by purchase, oꝛ yf
the heire demaund the mariage of his mo
ther, that is to say, the tenementes þ were
giuen vnto his mother in frankmarriage.

¶ Also where it is moued in diuers dedes
these woꝛdes in latin. Ego et heredes
mei. &c. warrantizabimus et imperpetuū
defendemus, it is to se what effecte hath
that woꝛde defendemus, in suche dedes.
And it semeth that it hath not the effect
of warrantise, noꝛ comprehendeth anye
cause of warrantise, for if it shulde be so
that it toke effect oꝛ cause of warrantyse
then it shulde be put in some fines leuyed
in the kynges courte. And it was neuer
sene, that this woꝛde defendemus was in
any fine but alonly this woꝛd warrantiz
abimus, by whiche it semeth, that this
verbe warrantizo, maketh warrantie, and
is the cause of warrantise, and none other
woꝛde in our lawe.

¶ Also if tenant in the tayle be seysed of
tenementes deuyfable by testament after
the custome. &c. and the ternaunte in the
taile alpeneth the tenementes to his bro
ther in fee, and hath issue and dyeth, and
after his brother deuyseth by hys testa
ment, the same tenementes to an other in
fee, & binderh him and his heyres to war
rantise. &c. & dieth wout issue, it semeth
that this warrantyse shall not barre the
issue

issue in the taylor, if he wyl sue his wyfere
 of forme done, because that this warrantie
 descendeth not to the issue in the taylor
 in so much that the uncle of the issue was
 not bounde by force of the same warrantie
 in his life. And the pofe of this, that
 he could not warrant the land in his lyfe
 is, in so much that the deuyse could not
 take any execution or effect, but after his
 decease, and in so much that the uncle in
 his life was not holde to warrantie, this
 proueth that it may not descend from him
 to the issue in the taylor. &c. for nothyng
 may descend fro the ancestor to his heyre
 but the same that was in the auncster.
 Also a warrantie may not go after the na
 ture of tenementes by the custome. &c. but
 only after the fourme of the common lawe
 For if tenant in taile be seised of tenementes
 in borough Englyshe, where the
 custome is, that all tenementes within
 the same borough oughte to descend to
 the yongest sonne, and he discontynueth
 the taylor with warrantyse. &c. and hath
 yfue two sonnes, and dyeth seised of
 other landes and tenementes in the same
 borough in fee symple, to the value or
 more of the tenementes taylor. &c. yet
 the yongest son shal haue a writ of forme
 done of the tenementes taylor, & shal not
 be barred by the warrantie of his father
 though

Warrantie
 shal enlue
 the course
 of the com
 mon lawe

though that inough to hym descended in
fee spimple, fro the same father after the
custome. &c. for this that the warrantie
descendeth bpō the elder hzother that is
in full life. &c. and not bpō the yōger son.

¶ In the same maner it is, of collaterall
warrātise made of such tenemētes where
the warrātise descendeth to the elder son
&c. this shal not barre the yōger son. &c.

¶ In the same maner it is of tenementes
in the wyze of Kent, which be called Ga-
uelkynd, the which tenementes be depar-
table among the bzethzen. &c. after the cu-
stome. &c. if any suche warrantie be made
by theyr ancestors, suche warrantie des-
cendeth al only to the heyre, that is heire
by the cōmon law, and not to al þ heyres
whiche be heires of suche tenementes af-
ter the custome. &c. by parol. *II. 22. E. 4.*

¶ Also if a tenaunte in taylor haue issue
two daughters by dyuers ventres, and
dyeth, and the daughters enter, and a
straunger dysseyeth them of the same te-
nementes, and one of the daughters re-
leaseth by her dede to the dysseyoure all
her right, and bindeth her and her heyres
to warrātise, and dieth without issue: in
this case the sister that suryvethe maye
well enter, and put oute the dysseyoure of
al the tenementes, for this that such war-
rantie is no discontynuaunce noz colla-
terall

teral warrantie to the sister & furniurely Cap. .ij.
 for this that they be of halfe bloud, & the
 one may not be heyze to the other after &
 course of the common lawe. But other
 wyle it is where there be daughters of
 the tenant in the tale by one selfe venter
 ¶ Also if tenant in the tale let tenemen-
 tes to an other for terme of his life, the re-
 maynder to an other in fee, and the colla-
 terall auncestor confymeth the estate of
 the tenant for terme of life, and bindeth
 him, & his heires to warrantie for terme
 of lyfe, of the tenant for terme of life, and
 dieth, and the tenant in the tale hath issue
 and dieth: Nowe this issue is barred to
 aske the tenementes by wylt of forme-
 done, duringe the lyfe of the tenant for
 terme of lyfe, by cause of the collaterall
 warrantie descended by the issue in the
 tale. But after the decease of & tenant for
 terme of life, the issue shall haue a forme-
 done. &c. and upon this I haue harde a re-
 sol, that this case shal proue an other case
 that is to saye, if a man lette his lande to
 an other, to haue and to holde vnto hym
 and to his heyres for terme of an others
 lyfe, yf the lessee dyethe, luyng hym to
 whoso lyfe. &c. and a straunger entrethe
 in the lande, that the heyze of the lessee
 maye put hym oute, for this that in the
 case nexte aforesayde, in so muche that a

Lyttelton liber. 3?

Capl. 13.

man maye bynde hym and his heyres to
warrant the tenant for terme of lyfe all
onely, durynge the lyfe of the tenant for
terme of lyfe, and that warrantise descen-
deth to the heyre of hym that made þ war-
rantyse, the which warrantyse is no wa-
rauntyse of inheritaunce, but all onelye
for terme of an others life, by the same re-
son, where tenementes be let to a man to
haue and to hold to him and to his heires
for terme of an others lyfe, yf the father
die, liuinge he to whose lyfe .sc. his heire
shall haue the tenementes, luyng him to
whose life. .sc. for they haue said þ if a mā
grant an annuities to an other, to haue and
to take to him and to his heires for terme
of an others lyfe, yf the graunter dye. .sc.
that after his heyre shall haue þ annuities
durynge the lyfe of him, to whose lyfe. .sc.
Quere de ista materia.

Inqnyre.

CBut where such lease or grant is made
to a mā & his heires for terme of yeres, in
this case the heyre of þ lessee or þ grantee
shall neuer haue, after the death of þ lessee
or the grantee, that þ is so letten or granta-
ted, for this that it is chattell real, and all
chattels reals by the common lawe shall
come to the executors of the grantee or
of the lessee, and not to the heyre. .sc.

CAlso in some case it may be, that howe
be it that a collateralle warrantyse be
made

Warrantie. Fol. C. lxxviii.

made in fee. &c. yet suche warrantie may
be defered and adiented.

Capl. 13.

**Warrantie
collateral**

CAs if the tenant in the tayle, dyscontynue the tayle in fee, and the dyscontynue is disseised, and the brother of the tenant in the tayle releaseth by his dede to the disseisour al his ryght. &c. with warrantie in fee, and dyeth without issue, and the tenant in the tayle hath issue, and dyeth, now the issue is barred of his action by force of the collateral warranties descendynge vpon him, but yf after this the discontinue enter vpon the dysseisour, then may the heyre in the tayle haue his action of *fozmedone*. &c. for this that the warrantie is aniented and defered. *foz* when the warrantie is made vnto a man vpon any estate that he then had, if the estate be defered, the warrantie is defered.

CIn the same maner it is, if the discontinue make a feoffement in fee, reseruing to him certayne rente, and *foz* defaute of paymente a reentre. &c. and a collateral ancestor releaseth to the feoffee that hath the estate vpon condicion. &c. and dyeth without issue, though that the warrantie descend vpon the issue in the tayle, yet yf after the rent be behynde, and the discontinue enfrethe into the lande. &c. then the issue in the tayle shall haue his reuerye by a *wyette* of *fozmedone*, *foz* thys that

the warrantie collateral is defeted. And so if any such collateral warrantie be pleaded agaynst the issue in the rape in hys action of formedone, he maye shewe the matter as it is aforesayd, howe the warrantie is defeted, and so he may wel mainteyne his action,

Also if tenant in the taile make a feoffement to his uncle and after his uncle maketh a feoffement in fee with warrantie. &c. to an other, and after the feoffee of the uncle enfeoffeth agayne the same uncle in fee, and after the uncle enfeoffeth a stranger in fee, without warrantie, and dyeth without issue, and the tenant in the taile dyeth, & the issue in the taile wyl hving his w;it of formedon against the stranger that cometh in by feoffement of the uncle, in this case the issue shal never be barred by the warrantie that was made by the uncle to the said first feoffee of his uncle, for this & the said warrantie was defeted and aniented, for this & the uncle toke agayne to him as great estate of his said first feoffee, to whō the warrantie was made, as the same feoffee had of hym. And the cause why the warrantie is aniented in this case is this, that is to say, that yf & warrantie were in his force, the uncle shal warrant unto hym selfe, which may not be, but if the feoffee made estate to
the

the Duke for terme of life, or in fee simple
 sauyng the reuercon vnto him. &c. or
 that he make a gife in the tale to the Du-
 ke, or a lease for terme of life, the remain-
 der ouer. &c. in this case the warranthe is
 not all breche aniched, but it is put in
 suspense, during the estate that the Duke
 hath, for after this, that the Duke is dead
 without issue, then he in the reuercon, or
 he in the remainder shall haue the right
 in the tale in his warr of foremanone by
 collaterall warranthe in such case. &c.
 But otherwile it is, where the Duke has
 as greete estate in the lande by the feoffes
 to whiche the warranthe was made, as the
 feoffes had of him. &c. causa parer. &c.

¶ Also yf the Duke after such feoffe-
 ment made with warranthe, or release
 made by him with warranthe, be arraigned
 of felony, or outlawed of felony, such col-
 laterall warranthe shall not haue any
 good issue in the tale, for this that
 by the arraigner of felony, the blood is
 corrupted between them. &c.

¶ Also yf renauue in the tale be dys-
 cepted, and after maketh a deade of relefe
 to the dysceitour with warranthe in fee,
 and after the tenur in the tale is arreting
 or outlawed of felony, and hath issue and
 dieth, in this case the issue in the tale may
 enter vpon the dysceitour.

¶ And the cause is for this, that nothing maketh the discontinuance in this case but the warrantie, that could not discende to the issue in the taylor, for this þ the bloude is corrupte betwene hym that made the warrantie and the issue in the taylor. For the warrantie alwaye abyderth at the common lawe, and the common lawe, is such, that when a man is outlawed oꝝ atteynt of felonye, whiche outlawye is an attainder in the lawe, that the bloude betwene hym and his sonne, and all other which shuld be said his heires, is corrupte so that nothinge by dyscent may descende to any that may be sayd his heyre, by the common lawe. And the wyfe of suche a man, that is so attaynt of felonye shal neuer be endowed in the tenementes of her husbande so attaynt.

¶ And the cause is for this, that men shuld moze eschewe to do felonies. &c. but the issue in the taylor as to the tenementes rayled, is not in such case barred, bicause he is inherited by force of the statute, and not by the course of the comon lawe. And therfore such attainder of his father, oꝝ of his ancestors in the taylor. &c. shal not put hym out of his ryght that he shulde have by force of the taylor. &c.

¶ Also yf tenant in the taylor encosse his uncle, the whiche encoseth an other with

With warrantie. &c. if after the feoffe by Cap. 13.
his dede release to the bucle all maner of
warranties, o: all maner coucnantes res
als, o: al maner of demaundes, by suche
release the warrantie is extincte. And yf
the warrantie in suche case be pleaded a-
gaynst the heyre in the taylor that by pui-
geth his w:rite of Formedone, to barre
the heyre of his action, yf the heyre haue
and pleade the sayde release. &c. he shall
defeate the plee in barre, &c. And many o-
ther cases and matters be there, wherby
a man may defeate warranties.

¶ And it is to wite, that in the same ma-
ner as collateral warrantie may be defe-
ted by matter in dede o: in lawe, in the
same maner may lineal warrantie be de-
feated. &c. For yf the heyre in the taylor
by puigeth a w:rite of Formedone, and a li-
neal warrantie of his ancestor, inheri-
table by force of the taylor, be pleaded a-
gaynst hym, with that that ynoughe to
him is descended of fee simple by the same
ancestor that made the warrantie, yf the
heire that is demandant may adnull and
defete the warrantie, this sufficeth to him
for the dyscente of othere tenementes
of fee simple makethe nothyng to barre
the heire without warrantie. &c.

¶ Finis.

The table.
¶ Herbegynneth the Table of
 this present booke.

Nowe haue I made for the my son
 thre bookes. The fyrst is of estate
 that men haue of landes oꝝ tenement
 res, that is to say.

A tenant in fee simple.	cap. i. fol. ii.
Tenant in fee taylor.	cap. ii. fol. v.
Tenante in the taylor after possibillite of illue extinct.	cap. iii. fol. vii.
Tenant by the curtesie of Englande.	cap. iiii. folio. ix.
Tenant in dower.	cap. v. fol. xodm.
Tenant for terme of life.	cap. vi. fol. xiii.
Tenant for terme of yeres.	ca. vii. fol. eo.
Tenant at wyll.	cap. viii. fol. xbi.
Tenant by copy of court rol.	ca. ix. fol. xbi.
Tenant by the parde.	cap. x. fol. xix.

¶ The seconde booke.

¶ Homage.	cap. i. fol. xx.
Fealty.	cap. ii. fol. xxi.
Visuage.	cap. iiii. fol. xxii.
Knighthood scrupce.	cap. iiii. fol. xxiii.
Sotage.	cap. v. fol. xxviii.
Frankalmoine.	cap. vi. fol. xxxi.
Homage ancestress.	cap. vii. fol. xxxb.
Braunde sergeantie.	cap. viii. fol. xxxvii.
Peite sergeantye.	cap. ix. fol. xxxix.
Tenure	

The table.

Tenure in burgage. cap. x. fol. codem.
Tenure in villenage. cap. xi. fol. xli.
Of the maner of rentes, that is to saye,
rent services, rent charge, and rent secke
cap. xii. fol. l.

And these two small bookes haue I
made for the for to vnderstand better cer-
taine chappters of the auntyent bookes
of tenures.

The thyrd booke.

Parteners by the common lawe.

cap. i. folio. lvi.

Parteners by the custome. cap. ii. fol. lxi.

Joyntenautes. cap. iii. fol. lxb.

Tenantes in common. cap. iiii. fol. lxi.

Estates vpon condicion. cap. v. fol. lxxviii.

Discentes. cap. vi. fol. lxxviii.

Contynuall clayme. cap. vii. fol. C. iiii.

Releasles. cap. viii. fol. C. xi.

Confymacions cap. ix. fol. C. xxi.

Attournement cap. x. fol. C. xxii.

Discontinuance. cap. xi. fol. C. xli.

Remytter. cap. xii. fol. C. lvi.

**Warrantie, that is to say, warrantie line-
all, warrantie collaterall, and warranty
that beginneth by disseisin.** cap. xiii. fol.
C. lxb.

Here endeth the table.

And

And knowe thou my sonne, that I
wyl not that thou beleue, that all
that I haue sayd in the said booke
is lawe, for that wyl I not take vpon me
nor presume. But of those thynges that
be not lawe, enquyre and learne of my
wyse maysters learned in the lawe. Not
withstandinge though that certayne thin-
ges that be noted and specyfied in the
sayd booke be not lawe, yet such thinges
shall make the more apte and able to
vnderstand and learne the argu-
mentes and the reasons of the
lawe. For by the argu-
mentes and the rea-
sons in the lawe,
a man may
more
sooner come to the cer-
tayntie and to the
knoweledge
of þ lawe.

¶ **Lex plus laudatur.**
Quando ratio probatur.

C: Imprinted

at Lodon in Fleetestrete

at the Sygne of the George

next to saynt Dunstones

churche by wylly:

am Dowell.

In the yere of our Lorde God

M. D. L. J. the fyrte

daye of Septēber.



Folio lxxix missing